

CHAPTER 6

SAFETY DEPARTMENTS AND REGULATIONS

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CHAPTER 6

SAFETY DEPARTMENTS AND REGULATIONS

ARTICLE 1. GENERAL PROVISIONS

Sec. 6-1 City's Authority to Regulate.¹

The City may regulate conduct, or use or possession of property which might endanger the public health, safety, or welfare of its citizens.

Sec. 6-2 Authority to Establish a Police Department.²

The City may establish, maintain, and operate a police and law enforcement system to preserve public peace and order and may provide facilities and equipment for that system.

Sec. 6-3 Authority to Regulate Air and Sound.³

The City may regulate the introduction of any substance or odor into the air, or any generation of sound.

Sec. 6-4 Authority to Regulate Public Gatherings.⁴

The City may regulate public gatherings, such as shows, demonstrations, fairs, conventions, sporting events, and exhibitions.

Sec. 6-5 Authority to Establish Fire Department.⁵

The City may establish, maintain, and operate a fire fighting and fire prevention system and may provide facilities and equipment for that system.

¹ I.C., 36-8-2-4, authorizes the regulation of conduct and property for reasons of public health, safety and welfare.

² I.C., 36-8-2-2, sets forth the authority to preserve public peace and order.

³ I.C., 36-8-2-8, authorizes the regulation of air and sound.

⁴ I.C., 36-8-2-9, authorizes the regulation of public gatherings.

⁵ I.C., 36-8-2-3, sets forth the authority to establish a fire fighting system.

Sec. 6-6 Offenses Against Public Health, Order and Decency.⁶

All offenses against public health, order and decency not addressed by this *Code* shall be governed by applicable State Statute.

Sec. 6-7 Resisting Official Action.⁷

It shall be unlawful for any person or persons to knowingly or intentionally interfere, or attempt to impede or interfere with any City official or employee in the performance of his or her official duties.

Sec. 6-8 Penalties.

Except as specifically set forth herein, any violation of any provision of this Chapter shall be subject to the penalties provided by Section 1-13 of this *Code*.

Sec. 6-9 through 6-12 Reserved for Future Use.

⁶ I.C., 35-45-1-1 *et seq.*, address such offenses.

⁷ I.C., 35-44-3-3, addresses resisting a law enforcement officer.

ARTICLE 2. ANIMAL REGULATIONS.**Sec. 6-13 “Owner” Defined.**

The term **OWNER** as use in this Article means every person having a right of property to an animal and every person who keeps or harbors an animal or has it in his care or permits it to remain on or about the premises owned or occupied by him. (Ord. No. 85-5, § 1, 5-20-85)

Sec. 6-14 “Animal” Defined.⁸

The term **ANIMAL** as used in this Article means cattle, calves, horses, mules, swine, sheep, goats, dogs, cats, poultry or other bird and any animals of the bovine, equine, ovine, caprine, porcine, canine, feline or avian species. (Ord. No. 85-5, § 2, 5-20-85)

Sec. 6-15 Unreasonably Loud Animal Noises Prohibited.

No person shall keep or harbor any animal within the limits of the City of Greenwood which, by excessive, untimely or habitual barking, howling, yelping, or other noise, creates unreasonably loud noise so as to disturb other persons in the vicinity or interrupt the peace, quiet, or good order of the community. (Ord. No. 85-5, § 3, 5-20-85)

Sec. 6-16 Penalties.

The owner of an animal which violates Section 6-15 of this *Code* within a two (2) year period shall be penalized as follows:

(a) Upon the first written signed complaint, the owner shall be given a written warning by a law enforcement officer, requiring the violation to cease within ten (10) days of such notice.

(b) Upon the second written signed complaint, a citation to appear in the appropriate Court shall be served upon such owner and, upon conviction hereunder, he may be fined no more than Twenty-five Dollars (\$25.00).

(c) Upon the second offense, the owner shall be fined not less than Twenty-Five Dollars (\$25.00) but not more than One Hundred Dollars (\$100.00).

(d) Upon the third offense, such owner shall be fined not less than Fifty Dollars (\$50.00) but not more than One Hundred Dollars (\$100.00).

(e) For the fourth and each subsequent offense, the owner shall be fined any sum within the discretion of the Court but not more than One Hundred Dollars (\$100.00). (Ord. No. 85-5, § 4, 5-20-85)

⁸ I.C., 15-2.1-2-15, defines “domestic animal.”

Sec. 6-17 Keeping Livestock or Poultry Prohibited.

No person shall keep any livestock or poultry within the City. (*Code* 1968, § 4.05; 1983 *Greenwood Municipal Code*, § 3-1)

Sec. 6-18 Running at Large Prohibited.⁹

Any person owning any animal shall not permit it to run at large at any time within the City. (*Code* 1968, § 9.02; 1983 *Greenwood Municipal Code*, § 3-2)

Sec. 6-19 Animal Bites.¹⁰

When the owner of an animal which has bitten some other person is so instructed by the Police Department, or any other proper City, county or state authority, to confine the animal for a specific length of time, and said owner disposes of the animal in any manner prior to the time said owner is authorized to dispose of said animal by the Police Department, or such other proper City, county, or state authority, said owner shall be guilty of an offense. (*Code* 1968, § 9.04; 1983 *Greenwood Municipal Code*, § 3-3)

Sec. 6-20 Impoundment.

(a) Any animal running at large in violation of Section 6-18 shall be impounded for a period of at least three (3) days in the area provided by the Board of Public Works and Safety. During such period of time the owner may obtain possession of such animal by paying the expenses incurred in caring for and feeding such animal, any and all taxes and license fees which may be due and unpaid for such animal, and in the case of a dog or cat by having it vaccinated and paying for same, or furnishing evidence that such dog or cat has been vaccinated within period of one year immediately prior thereto; in addition, such owner must pay an impounding fee of Five Dollars (\$5.00) the first time such animal is impounded and Fifteen Dollars (\$15.00) the second and each subsequent time the animal is impounded. Any animal which has not been so redeemed and its release obtained from such pound by its owner shall be disposed of in the manner prescribed by the Board of Public Works and Safety. (1983 *Greenwood Municipal Code*, § 3-5(a))

⁹ I.C., 15-2.1-21-8, addresses recklessly permitting a domestic animal to run at large.

¹⁰ I.C., 36-8-2-6, authorizes the City to regulate animals.

Sec. 6-21 City Pound.

There is created a City Pound to be maintained and regulated within the City upon such rules and regulations as the Board of Public Works and Safety shall determine. Such rules and regulations shall be based upon the public health and safety. (1983 *Greenwood Municipal Code*, § 3-5(b))

Sec. 6-22 Humane Officer.¹¹

The Board of Public Works and Safety may hire by yearly contract a humane officer upon such terms and conditions as it may determine. (1983 *Greenwood Municipal Code*, § 3-5(c))

Sec. 6-23 Board of Public Works and Safety to Establish Animal Rules.

The Board of Public Works and Safety is authorized to establish the rules and regulations concerning the impounding, keeping, sale and redemption of any animal found in violation of the City ordinances in relation thereto. Such rules and regulations shall be based upon the public health and safety. (1983 *Greenwood Municipal Code*, § 3-5(d))

Sec. 6-24 City Police and Humane Officer to Enforce.

The City Police, as well as the Humane Officer, are authorized to pick up any animal running at large in violation of Section 6-18 for purposes of impounding said animal. Such officer shall have full power to enforce all provisions of this Section, including the right to proceed upon public and private property within the City in pursuit of animals in violation of this Section. Such officer, however, shall not have the right to enter a privately-owned enclosure in pursuit of any such animal without the consent of the owner, lessee or other occupant of the enclosure, or other legal process. (Code 1968, § 9.03; 1983 *Greenwood Municipal Code*, § 3-5(e))

Sec. 6-25 Animals in Parks.

Regulations addressing dogs, horses, mules, ponies, or other beasts of burden are set forth in Section 5-12 of this *Code*.

Sec. 6-26 Penalties.

(a) The owner of an animal found running at large shall be subject to a civil penalty of Fifteen Dollars (\$15.00) for the first offense.

(b) Any owner of a dog not having a proper dog tag shall be subject to a civil penalty of Five Dollars (\$5.00) for the first offense.

Sec. 6-27 through 6-34 Reserved for Future Use.

¹¹ I.C., 36-8-3-18, addresses Humane Officers.

**ARTICLE 3. PROCEDURES FOR THE VACATION OF PUBLIC WAYS
AND PLACES.**

Sec. 6-35 Short Title.

This Article shall be known as the “Greenwood Ordinance for the Vacation of Public Ways and Public Places.” (Ord. No. 84-1, § 1, 1-16-84)

Sec. 6-36 Definitions.

(a) **PUBLIC PLACE** as defined in *I.C.*, 36-7-1-16, includes any tract owned by the state or a political subdivision.

(b) **PUBLIC WAY** as defined in *I.C.*, 36-7-1-17, includes highways, streets, avenues, boulevards, roads, lanes or alleys. (Ord. No. 84-1, § 2, 1-16-84)

Sec. 6-37 Application.

This Article shall apply to all public ways and public places within the corporate boundaries of the City of Greenwood, Indiana. (Ord. No. 84-1, § 3, 1-16-84)

Sec. 6-38 Filing a Petition.¹²

(a) Persons who own or are interested in any lots or parts of lots, and want to vacate all or part of a public way or public place in or contiguous to those lots or parts of lots, may file a petition for vacation with the Common Council if all or any part of the public way or public place to be vacated is located within the corporate boundaries of the City of Greenwood.

(b) Petitions for vacation must be filed at least thirty (30) days prior to the public hearing by the Common Council. Said petitions shall be filed in triplicate with the Clerk-Treasurer’s office, one copy to remain on file with the Clerk-Treasurer, one copy to be forwarded to the Board of Public Works and Safety, and one copy to be forwarded to the Plan Commission.

(c) Both the Board of Public Works and Safety and the Plan Commission shall review the petition for vacation and submit their written comments and recommendations to the Common Council prior to the scheduled public hearing. (Ord. No. 84-1, § 4, 1-16-84)

¹² *I.C.*, 36-7-3-11, addresses the filing of a petition to vacate and requires thirty (30) days' notice from the Plan Commission staff before the Council's public hearing.

Sec. 6-39 Contents of Petition.

The petition must:

- (a) state the circumstances of the case;
- (b) specifically describe the property proposed to be vacated;
- (c) give the names and addresses of all owners of land that abuts the property proposed to be vacated;
- (d) be accompanied by a plat map of the area which includes and surrounds the property proposed to be vacated. (Ord. No. 84-1, § 5, 1-16-84)

Sec. 6-40 Public Notification.¹³

(a) The Clerk-Treasurer shall cause notice to be given of the petition and of the time and place of the hearing:

- (1) in the manner prescribed in *I.C.*, 5-3-1; and
- (2) by certified (return-receipt) mail to each owner of land that abuts the property proposed to be vacated.

(b) The petitioner shall pay the expense of providing these notices and shall be responsible for delivering said notices. (Ord. No. 84-1, § 6, 1-16-84)

Sec. 6-41 Public Hearing and Remonstrance.¹⁴

Any person aggrieved by the proposed vacation may object to it, but only on one (1) or more of the following grounds:

(a) The vacation would hinder the growth or orderly development of the unit or neighborhood in which it is located or to which it is contiguous.

(b) The vacation would make access to the lands of the aggrieved person by means of public way difficult or inconvenient.

(c) The vacation would hinder the public's access to a church, school, or other public building or place.

(d) The vacation would hinder the use of a public way by the neighborhood in which it is located or to which it is contiguous. (Ord. No. 84-1, § 7, 1-16-84)

¹³ *I.C.*, 36-7-3-12, addresses notice.

¹⁴ *I.C.*, 36-7-3-13, addresses the filing of remonstrances and objections.

Sec. 6-42 Vacation to be by Ordinance.

After the hearing on the petition, the Common Council may, by ordinance, vacate the public way or public place. The Clerk-Treasurer shall furnish a copy of each vacation ordinance to the County Recorder and to the County Auditor. (Ord. No. 84-1, § 8, 1-16-84)

Sec. 6-43 Right of Appeal.

Within thirty (30) days after the adoption of a vacation ordinance, any aggrieved person may appeal the ordinance to the circuit court of the County. The court shall try the matter “de novo” and may award damages. (Ord. No. 84-1, § 9, 1-16-84)

Sec. 6-44 through 6-49 Reserved for Future Use.

ARTICLE 4. FIRE CODE**Division I. General Provisions.****Sec. 6-50 Title.**

This ordinance, and all ordinances supplemental or amendatory hereto, shall be known as the "Fire Prevention Code of the City of Greenwood, Indiana", may be cited as such, and will be referred to herein as the "Fire Code", or the "Code". (Ord. No. 91-50, § 5-1, 2-3-92)

Sec. 6-51 Purpose.

The purpose and the intent of the Fire Code is to prescribe minimum requirements and controls to safeguard life, property or public welfare from the hazards of fire and explosion arising from the storage, handling or use of substances, materials or devices and from conditions hazardous to life, property or public welfare in the use or occupancy of buildings or premises. (Ord. No. 91-50, § 5-2, 2-3-92)

Sec. 6-52 Definitions.

The following definitions shall read as follows:

APPROVED shall mean, when used in this Chapter or any adopted NFPA standard or related document, acceptance by the Fire Prevention and Building Safety Commission and the Division of Fire Prevention of the Greenwood Fire Department of the design, equipment, installation or intended use, as required by this Chapter. The Division shall accept only those designs, equipment, installations and uses which follow principles accepted in the industry, according to tests or investigations conducted by, or standards promulgated by, Underwriters' Laboratories, Inc., the Factory Mutual Research Corporation, American Gas Association Laboratories, or other recognized independent testing companies. (Ord. No. 92-25, § 5-3, 6-1-92)

ASSEMBLY BUILDING is a building or portion of a building used for the gathering together of fifty (50) or more persons for purposes such as, but not limited to, deliberation, education, instruction, worship, dining, drinking, entertainment, amusement or awaiting transportation. (Ord. No. 92-25, § 5-3, 6-1-92)

AUTHORITY HAVING JURISDICTION when used throughout the National Fire Protection Association standards adopted in this Article, shall mean the Division of Fire Prevention of the Greenwood Fire Department. (Ord. No. 91-50, § 5-3, 2-3-92)

AUTHORIZED REPRESENTATIVE shall mean the individual assigned by the Fire Chief. (Ord. No. 91-50, § 5-3, 2-3-92)

CLASS I STRUCTURE shall have the meaning ascribed to it by 675 *Indiana Administrative Code* section 12-6-2 (a) (1) through (5). (Ord. No. 91-50, § 5-3, 2-3-92)

COMBUSTIBLE shall mean materials such as paper, fiber, liquids, vegetable matter or any other material which is readily ignitable and free-burning. (Ord. No. 91-50, § 5-3, 2-3-92)

DIVISION shall mean the Division of Fire Prevention of the Greenwood Fire Department, and shall include any authorized officer, agent or employee of the Division. (Ord. No. 91-50, § 5-3, 2-3-92)

EDUCATIONAL OCCUPANCY shall mean a building which is ordinarily or primarily used for instructional purposes. The incidental use of a building for instructional purposes shall not render it an educational occupancy for the purposes of this Code. (Ord. No. 91-50, § 5-3, 2-3-92)

FPBSC shall mean the Fire Prevention and Building Safety Commission of the State of Indiana, as established by *I. C.*, 22-12-2-1. (Ord. No. 91-50, § 5-3, 2-3-92)

FIRE APPARATUS shall mean vehicles such as fire pumpers, aerial ladder trucks, elevated platforms, rescue squad cars or other fire-fighting or rescue equipment. (Ord. No. 91-50, § 5-3, 2-3-92)

FIRE APPLIANCE shall mean equipment provided or installed for use in the event of an emergency. (Ord. No. 91-50, § 5-3, 2-3-92)

FIRE ASSEMBLY shall mean the assembly of a fire door, fire window or fire damper, including all required hardware, anchorage, frames and sills. (Ord. No. 91-50, § 5-3, 2-3-92)

FIRE HAZARD shall mean any thing or act which increases or may increase the possibility or menace of fire to a greater degree than that customarily recognized as normal by the Division; or which may obstruct, delay, hinder or interfere with the operations of the fire department or the egress of occupants in the event of fire. (Ord. No. 91-50, § 5-3, 2-3-92)

FIRE PROTECTION STANDARDS shall mean standards developed by the Greenwood Fire Department Fire Prevention Division from time to time. (Ord. No. 91-50, § 5-3, 2-3-92)

HAZARDOUS MATERIALS shall have the meaning ascribed to it in Section 9-110 (b) of the Indiana Fire Prevention Code. (Ord. No. 91-50, § 5-3, 2-3-92)

INCINERATOR shall mean a structure, or portion thereof, container, device or other appliance designed, used or intended to be used for the disposal of combustible material by burning. (Ord. No. 91-50, § 5-3, 2-3-92)

INDIANA CITIES WATER CORPORATION shall mean that private corporation, its successors and assigns, which supplies water service to various governmental entities in central Indiana, including the City of Greenwood. (Ord. No. 91-50, § 5-3, 2-3-92)

INSPECTION shall mean a visual examination of a building, system, design or installation, to verify that it meets the standards of the Fire Code, and/or is in acceptable operating condition and free of defects. (Ord. No. 91-50, § 5-3, 2-3-92)

INSTITUTIONAL OCCUPANCY shall mean all buildings or parts of buildings where persons are cared for by others due to age, illness, physical or mental limitations, or incarceration for correctional or treatment purposes, including but not limited to hospitals, prisons, juvenile detention facilities, nursing homes and day care centers. (Ord. No. 91-50, § 5-3, 2-3-92)

NFPA shall mean the National Fire Protection Association, which publishes the volumes of the National Fire Codes. (Ord. No. 91-50, § 5-3, 2-3-92)

OPEN BURNING shall mean any burning which is not confined to an incinerator, as defined by this Code. (Ord. No. 91-50, § 5-3, 2-3-92)

OWNER shall mean the owner of the freehold of the premises or lesser estate therein, a mortgagee or vendee in possession, assignee of rents, receiver, executor, trustee, lessee or other person in control of a building, or his/her agent. Such term shall include a tenant of a dwelling unit, where applicable. (Ord. No. 91-50, § 5-3, 2-3-92)

PERMITTED FIRES shall mean fires used for recreation or cooking, such as bonfires, campfires or barbecues. (Ord. No. 91-50, § 5-3, 2-3-92)

PERSON shall mean person, firm, corporation, partnership, association and bodies politic and corporate. (Ord. No. 91-50, § 5-3, 2-3-92)

PREMISES shall mean public streets, alleys and roads, as well as yards, whether enclosed or not, which surround buildings. (Ord. No. 91-50, § 5-3, 2-3-92)

SUBSTANTIAL REHABILITATION shall mean any improvement to a building or structure which increases its fair market value by forty percent (40%) or more.

TESTING shall mean a functional test of all components to verify proper operation of the system, design, installation or use. (Ord. No. 91-50, § 5-3, 2-3-92)

VENT shall mean a listed factory-made vent pipe and vent fittings for conveying flue gases to the outside atmosphere. (Ord. No. 92-25, § 5-3, 6-1-92)

Sec. 6-53 Applicability.

(a) The provisions of the Fire Code and the building and fire safety rules of the FPBSC shall apply equally to new and existing buildings and conditions with the following exceptions:

(1) Existing conditions which do not constitute a distinct hazard to life of property.

(2) The transportation of any articles or substances under the jurisdiction of and in compliance with regulations prescribed by the military forces of the United States.

(b) The planning, design and construction of new buildings, egress facilities, fire protection, and built-in fire protection equipment shall be controlled by the building rules of the FPBSC, and any alterations, additions or changes in buildings required by the provisions of the Fire Code which are within the scope of the said building rules shall be made in accordance with the building rules of the FPBSC.

(c) Buildings built under and in full compliance with the building and fire safety laws and rules in force at the time of construction or alteration thereof, and that have been properly maintained and used for such use as originally permitted, shall be exempt from the requirements of the Fire Code pertaining to any of the following matters:

(1) Fire protection of structural elements;

(2) Exits required, except as specifically provided in the Fire Code;

(3) Isolation of hazardous operations and mixed uses; provided, however, that the Fire Chief shall require the installation of fire safety devices or systems including, but not limited to, fire extinguishers, fire alarms, fire detection devices, or similar systems, where they are necessary to protect life or property, in accordance with applicable state law.

(d) In lieu of requiring the installation of safety devices or systems or in addition thereto, the Fire Chief may prescribe limitations on the handling and storage of materials or substances or upon operations which may cause fire, contribute to the spread of fire, or endanger life or property, in accordance with applicable state law.

(e) Any orders issued by the Fire Chief to obtain compliance with this subsection shall be governed by the provisions of *I.C.*, 36-8-17-9 (d). (Ord. No. 93-5, § 5-4, 2-15-93)

Sec. 6-54 Adoption of Fire Prevention Codes.

(a) Whenever, in this Code, sections or portions of other codes, standards, statutes or other laws are incorporated by reference, two (2) copies of the incorporated material shall be kept on file in the office of the Greenwood Clerk-Treasurer for public inspection during ordinary business hours. All such materials incorporated shall include all amendments to such codes, standards, statutes and laws, as the same become effective.

(b) The following fire safety rules of the Indiana Fire Prevention and Building Safety Commission as set out in Article 22 of Title 675 of the *Indiana Administrative Code* are incorporated by reference in this Code:

(1) Indiana Flammable and Combustible Liquids and Gases Code (675 *IAC* 22)

(2) Indiana Fire Prevention Code (675 *IAC* 22) (Ord. No 91-50, § 5-5, 2-3-92)

Sec. 6-55 Minimum Standards.

(a) The minimum standards of adequacy to be applied under this Article shall be those specified by the FPBSC and any NFPA National Fire Standards adopted.

(b) A current copy of the Indiana Fire Prevention Code and National Fire Standards, as published by the NFPA, shall be available for public inspection and duplication during regular business hours in the office of the Division or the Building Commissioner. (Ord. No. 92-25, § 5-6, 6-1-92)

(c) A current copy of the Fire Prevention Standards of the City of Greenwood Fire Department shall be available for public inspection and duplication during regular business hours in the offices of the Division or the Building Commissioner. (Ord. No. 91-50, § 5-6, 2-3-92)

Sec. 6-56 through Sec. 6-59 Reserved for Future Use.

Division II. Administration and Enforcement.**Sec. 6-60 Enforcement Authority.**

(a) It shall be the duty and responsibility of the Fire Chief, who is an ex officio assistant to the state fire marshal under *I.C.*, 36-8-17-5 (a), or his authorized representative, to enforce the provisions of this Code.

(b) The Fire Chief shall cooperate with the Building Commissioner responsible for the enforcement of the building laws of the *Greenwood Municipal Code* pursuant to *I.C.*, 36-7-2-9. (Ord. No. 91-50, § 5-11, 2-3-92)

Sec. 6-61 Fire Prevention Division.

A Fire Prevention Division is established within the Fire Department under the direction of the Fire Chief. The function of this Division shall be to assist the Fire Chief in the administration of the Fire Code and the Indiana Fire Code. The Chief may assign personnel to the Division to administer and enforce the provisions of this Code. (Ord. No. 91-50, § 5-12, 2-13-92)

Sec. 6-62 Police Powers to Enforce.

The Fire Chief shall have powers of a police officer in performing duties under this Code. The Fire Chief may delegate said powers to any member of the Division as he deems necessary. (Ord. No. 91-50, § 5-13, 2-3-92))

Sec. 6-63 Authority of Police Personnel to Assist in Enforcing of Code.

Whenever requested to do so by the Fire Chief, the Chief of Police shall assign such available police officers as in his discretion may be necessary to assist the Fire Department in enforcing the provisions of this Code. (Ord. No. 91-50, § 5-14, 2-3-92))

Sec. 6-64 Inspections.

(a) The Fire Chief shall cause to be inspected, on a regular basis, all structures and premises except the interiors of private single-family dwellings and dwelling units in two-family and multi-family dwellings, for the purpose of ascertaining and causing to be corrected any conditions which may cause fire, contribute to the spread of fire, interfere with fire fighting operations, endanger life or property, or which violate any of the provisions or intent of this Code.

(b) Whenever necessary for the purpose of enforcing the provisions of the Fire Code, or whenever the Fire Chief or his authorized representative has reasonable cause to believe that there exists in any structure or upon any premises any condition which makes such structure or premises unsafe, the Fire Chief or his authorized representative shall be permitted to enter such structure or premises at all reasonable times to inspect the same or to perform any duty imposed by this Code; provided that if such structure or premises be occupied, the Fire Chief or his authorized representative shall first present proper credentials and request entry. If such entry is refused, the Fire Chief shall have recourse to every remedy provided by law to secure entry. (Ord. No. 91-50, § 5-15, 2-3-92)

Sec. 6-65 Coordination.

Whenever in the enforcement of the Fire Code the responsibility of more than one (1) official of the City of Greenwood is involved, it shall be their duty to coordinate their inspections and administrative orders as fully as practicable so that the owners and occupants of the structure shall not be subjected to visits by numerous inspectors nor multiple or conflicting orders. Whenever an official from any agency or department observes an apparent or actual violation of some provision of some law, ordinance or provision of the *Greenwood Municipal Code* not within the official's authority to enforce, that official shall report the findings to the official having jurisdiction. (Ord. No. 91-50, § 5-16, 2-3-92)

Sec. 6-66 Investigations.

The Fire Chief shall investigate, or cause to be investigated, every fire or explosion occurring within the City of Greenwood. Such investigation shall be initiated immediately upon the occurrence of such fire or explosion. The Fire Chief or his authorized representative shall take charge immediately of the physical evidence, and in order to preserve any physical evidence relating to the cause or origin of such fire or explosion, may take action to prevent access by any person or persons to such buildings, structures or premises until such evidence has been properly processed. The Fire Chief shall notify the Office of the State Fire Marshal of all incidents required to be reported pursuant to *I.C.* 36-8-17-7. (Ord. No. 91-50, § 5-17, 2-3-92)

Sec. 6-67 Fire Records; Reports.

(a) The Division shall keep a file copy of reports on all properties inspected, orders issued and complaints investigated.

(b) The Fire Chief shall keep a record of all fires and all facts concerning the same, including investigation findings, statistics and information as to the cause, origin and the extent of damage caused thereby.

(c) All Division reports and records shall be made public unless determined to be confidential.

(d) The Fire Chief shall submit a report of each fire occurring within the City of Greenwood to the Office of the State Fire Marshal in accordance with *I.C.*, 36-8-17-7, and in such form as prescribed by that office.

(e) The Fire Department may develop pictures of structures and areas damaged by fire. Unless the pictures or reports involve cases of arson or other confidential matters, the Fire Department may supply pictures and/or reports to interested parties upon payment of Three Dollars (\$3.00) per picture or in accordance with the copying fee schedule as approved by the Board of Public Works and Safety.

(f) The Fire Chief shall assign appropriate personnel to the duties created by this Section. Such personnel shall make such records available during all regular hours of the Division, which hours shall be prescribed by the Fire Chief. (Ord. No. 91-50, § 5-18, 2-3-92)

Sec. 6-68 Violations; Orders.

(a) Whenever the Fire Chief or his authorized representative observes an apparent or actual violation of a provision of this Code or other laws under the Fire Chief's jurisdiction, the Fire Chief or his authorized representative shall prepare a written notice of violation and order describing the condition deemed unsafe and specifying a reasonable time for the required repairs or improvements to be made to correct such violation. The written notice of violation shall be served upon the owner, a duly authorized agent, or upon the occupant or other person responsible for the conditions in violation. Such notice of violation shall be served:

(1) By delivering a copy of same to such person or persons by ordinary mail to the last known post office address;

(2) Delivering a copy in person, or by delivering it to and leaving it in the possession of any person in charge of the premises;

(3) In the case such person is not found upon the premises, by affixing a copy in a conspicuous place to or near the entrance door or avenue of access.

Such procedure shall be deemed the equivalent of personal notice.

(b) If the requirements stated in the notice of violation and order are not complied with within the time specified in the notice and order and if no review of such order has been initiated under *I.C.*, 36-8-17-10, the Fire Chief shall request the Greenwood City Attorney to institute the appropriate legal proceedings to restrain, correct or abate such violation or to require removal or termination of the unlawful use of the building or structure in violation of the provisions of this Code, or of any order or direction made pursuant thereto.

(c) When, in the opinion of the Fire Chief or his authorized representative, there is actual or potential danger to the occupants or those in proximity to any building, structure or premises, because of conditions including but not limited to unsafe structural conditions, inadequacy of any means of egress, the presence of explosives, explosive fumes or vapors or the presence of toxic fumes, gases or materials, the Fire Chief may issue an emergency order for the immediate evacuation

of said building, structure or premises. All of the occupants so notified shall immediately leave the building, structure or premises. Persons shall not enter or reenter until authorized to do so by the Fire Chief. Any person who refuses to leave, or interferes with the evacuation after having been given an evacuation order violates this Code. (Ord. No. 91-50, § 5-19, 2-3-92)

Sec. 6-69 Appeal From Orders.

(a) Any order issued or any enforcement action taken by the Fire Chief pursuant to this Code may be appealed by the owner or occupant within five (5) days of receipt of the order or the taking of enforcement action, to the Fire Chief. (Ord. No. 92-25, § 5-20 (a), 6-1-92)

(b) Within five (5) days of filing an appeal with the Fire Chief, the order or enforcement action shall be reviewed and a written copy of the decision mailed to the appellant by certified mail.

(c) Within ten (10) days of receipt of a decision pursuant to subsection (b), the appellant may appeal the decision of the Fire Chief to the Board of Public Works and Safety. The appeal shall be taken by filing a notice of appeal on a form to be prescribed by the City Attorney with the Fire Chief and the Board of Public Works and Safety.

(d) Within ten (10) days of the filing of a notice of appeal pursuant to subsection (c), the Board of Public Works and Safety shall review the decision of the Chief and shall notify the appellant by certified mail of its decision.

(e) Within five (5) days after receipt of the decision of the Board of Public Works and Safety pursuant to subsection (d), the appellant may appeal the decision of the Board of Public Works and Safety to a Court having general jurisdiction in the County. (Ord. No. 91-50, § 5-20 (b)-(e), 2-3-92)

(f) This right of appeal is in addition to any rights granted by *I. C.*, 22-13-2-7, as amended. The owner or occupant is not required to exhaust the remedies provided by this Section, but may appeal directly to the FPBSC. (Ord. No. 92-25, § 5-20 (f), 6-1-92)

Sec. 6-70 Enforcement in Court.

The Greenwood City Attorney, upon receipt of a written notice from the Fire Chief that, after having issued a lawful notice and order to abate a violation of this Code, and after a reasonable time for compliance has expired, shall bring action in the Greenwood City Court or any Court of general jurisdiction in Johnson County, Indiana, for mandatory or injunctive relief to enforce any

order or orders made by the Fire Chief, and any such action for mandatory or injunctive relief may be joined with an action to recover the penalties provided for in this ordinance. (Ord. No. 91-50, § 5-21, 2-3-92)

Sec. 6-71 Penalties.

(a) Unless otherwise specified, any person, firm, or corporation who violates any of the provisions of this ordinance, or commits any act prohibited herein, or fails to perform any duty lawfully imposed, within the time prescribed by the Fire Chief, or fails, neglects or refuses to obey any lawful order given by the Fire Chief in connection with the provisions of this ordinance, is subject to the general penalty provisions of the *Greenwood Municipal Code*, Section 1-13. For each day on which such unlawful activity continues, a separate offense shall be deemed to be committed.

(b) The Court having jurisdiction, in addition to finding a violation under subsection (a), shall compel compliance with the provision violated or compel the correction of the hazardous condition created. If the person to whom the order of the Court is directed fails to comply with the order within the time specified, the Fire Chief or his authorized representative may enter the premises and cause the violation or hazardous condition to be corrected and the cost thereof assessed as a special tax against the property, or take such other action as is authorized by the order of the Court. (Ord. No. 91-50, § 5-22, 2-3-92)

Sec. 6-72 Special Procedures.

(a) The Fire Chief may modify any of the provisions of this Code upon application in writing by the owner or his duly authorized representative when there are practical difficulties in the way of carrying out the strict letter of the Code, provided that the spirit of the Code shall be complied with, public safety secured and substantial justice done. All such variances are subject to the review of the FPBSC, pursuant to *I.C.*, 22-13-2-7. The particulars of such modification shall be granted or allowed, and the decision of the Fire Chief shall be granted or allowed, and the decision of the Fire Chief shall be entered upon the records of the Department and a signed copy shall be furnished the applicant.

(b) The Fire Chief may require tests as proof of compliance with the intent of this Code, such tests to be made by an approved method or entity at the expense of the person requesting approval of the alternate material or method of construction.

(c) If technical expertise is unavailable within the Department, the Fire Chief may require the owner of the building or premises to provide, without charge to the Department, the services of technical personnel. An opinion and report shall be prepared by a qualified engineer, specialist, laboratory or fire safety specialty organization acceptable to the Chief and the property owner. The report shall analyze the fire safety properties of the design, operation or use of the building or premises and the facilities and appurtenances situated thereon, and prescribe the necessary recommended changes. (Ord. No. 91-50, § 5-23, 2-3-92)

Sec. 6-73 Liability for Damage.

This Code shall not be construed to hold the public entity or any officer or employee responsible for any damage to persons or property by reason of the inspection or reinspection, authorization herein provided or by reason of the approval or disapproval of any equipment or process authorized herein or for any action in connection with the control or extinguishment of any fire or in connection with any other official duties. (Ord. No. 91-50, § 5-24, 2-3-92)

Sec. 6-74 Effect of Failure to Inspect or Issue Order.

The failure of the Fire Chief or his authorized representative to inspect or to issue an order shall not constitute approval of noncompliance with the provisions of this Chapter. (Ord. No. 91-50, § 5-25, 2-3-92)

Sec. 6-75 through 6-77 Reserved for Future Use.

Division III. General Provisions Against Fire.**Sec. 6-78 Types and Construction of Incinerators.**

(a) Commercial or industrial incinerators shall be constructed in accordance with the provisions of the Indiana Building and Mechanical Codes, and regulations of the Indiana Department of Environmental Management and the Environmental Protection Agency.

(b) Every incinerator shall be equipped and maintained with a spark arrester constructed of iron, heavy wire, mesh or other non-combustible material, with openings not larger than one-half (1/2) inch.

(c) Every incinerator shall be constructed and maintained in accordance with the requirements of any air pollution control district having jurisdiction.

(d) No incinerator shall be permitted to be used in residential areas. (Ord. No. 91-50, § 5-31, 2-3-92)

Sec. 6-79 Maintenance.

Every incinerator, barbecue pit and the equipment thereof shall be maintained in good condition and repair at all times. (Ord. No. 91-50, § 5-32, 2-3-92)

Sec. 6-80 Clearance Between Permitted Fires and Combustibles.

A minimum clearance of ten (10) feet shall be maintained between any permitted fire and any combustible material. (Ord. No. 91-50, § 5-33, 2-3-92)

Sec. 6-81 Fire Hazard Prohibited.

A person shall not construct, erect, install, maintain or use any incinerator, barbecue pit or outdoor fireplace, or burn any combustible material so as to constitute or occasion a fire hazard by the use of burning thereof. (Ord. No. 91-50, § 5-35, 2-3-92)

Sec. 6-82 Burning of Structures Prohibited.

No person shall set fire to or burn, or cause the setting of fire to or the burning, or aid, counsel, or procure the setting of fire to or the burning of any building or structure, whether finished or unfinished, occupied or unoccupied and whether owned by him or another, within the City, without the express written permission of the Fire Chief. (Ord. No. 92-25, § 5-36, 6-1-92)

Sec. 6-83 Open Burning.

(a) No open burning shall be permitted within the City of Greenwood. This provision shall not be construed to include permitted fires which meet the requirements below. (Ord. No. 91-50, § 5-37 (a), 2-3-92)

(b) No person shall kindle or maintain any permitted fire or permit any such fire to be kindled or maintained on private land unless located safely not less than fifty (50) feet from any building or structure. (Ord. No. 92-25, § 5-37 (b), 6-1-92)

(c) Permitted fires shall be constantly attended by a person at least sixteen (16) years of age until such fire is extinguished. This person shall have a garden hose connected to a water supply, or other fire-extinguishing equipment readily available for use.

(d) The Fire Chief may prohibit any permitted burning when atmospheric conditions, weather conditions, or local circumstances make such fires hazardous, in the Chief's discretion.

(e) All permitted fires must meet the latest requirements of the Air Pollution Control Board of Indiana.

(f) If a fire creates a nuisance or hazard, the fire shall be extinguished. (Ord. No. 91-50, § 5-37 (c)-(f), 2-3-92)

Sec. 6-84 Smoking.¹⁵

(a) For purposed of this Section, **SMOKING** shall mean and include the use or carrying of a lighted pipe, cigar, or cigarette which is used to burn tobacco or other substances in any form.

(b) No person shall smoke or carry a lighted cigar, cigarette, pipe or match, or use any spark, flame or fire-producing device, unless specifically authorized for use by the Fire Chief or his authorized representative, in the following places:

(1) Retail selling establishments;

(2) Assembly buildings;

(3) Educational occupancies;

(4) Institutional occupancies;

(5) Buildings, except residential occupancies, which contain flammable liquids, compressed gases, hazardous chemicals, explosives or combustible materials, any of which could be thereby exposed to ignition; and

(6) Other places of danger so designated at any time by the Fire Chief or his authorized representative, in their discretion;

provided, however, that the owner of the above-enumerated places may designate smoking rooms or other areas where smoking is permissible if such smoking room or area has been approved by the Fire Chief.

¹⁵ I.C. , 13-1-13-1 *et seq.*, sets forth the Clean Indoor Air Law.

(c) No person shall remove any legally required "**No Smoking**" sign, or smoke in any place where such signs are posted.

(d) Violation of any of the provisions of this Section shall be subject to the jurisdiction of the Ordinance Violations Bureau, and shall be subject to a \$15.00 civil penalty for the first violation in a calendar year. (Ord. No. 91-50, § 5-38, 2-3-92)

Sec. 6-85 Occupancy and Area Separations and Draft Stop Partitions.

(a) All required fire-resistive construction, including fire windows, fire doors and fire dampers, along with all required hardware, anchorage, frames, sills, shall be maintained as specified in the Indiana Building Code, Indiana Fire Prevention Code and the *Greenwood Municipal Code*. These items shall bear all approved labels or other identification showing the rating thereof and shall be properly repaired, restored or replaced when damaged, altered, breached, penetrated, removed or improperly installed.

(b) Fire assemblies shall not be obstructed or otherwise impaired in their operation at any time.

(c) A sign shall be permanently displayed near or on each required fire door in letters not less than one (1) inch high which reads "**FIRE DOOR - DO NOT OBSTRUCT**". (Ord. No. 91-50, § 5-39, 2-3-92)

Sec. 6-86 Electrical Wiring.

(a) All electrical wiring shall be done in accordance with the Indiana Electrical Code in effect at the time of installation.

(b) When any electrical installation is hazardous or unsafe, the Fire Chief or his authorized representative shall issue an order for such installation to be brought into compliance with the current Electrical Code. (Ord. No. 92-25, § 5-40, 6-1-92)

Sec. 6-87 Protection of Gas Meters or Piping.

When exposed to possible damage by vehicles due to proximity to alleys, driveways, parking areas or delivery areas, the owner of the building or premises shall cause above-ground gas meters, regulators and piping to be protected by steel posts located at least one (1) foot from such equipment so that they will not interfere with maintenance or operation of the equipment. (Ord. No. 91-50, 5-41, 2-3-92)

Sec. 6-88 through Sec. 6-90 Reserved for Future Use.

Division IV. General Provisions of Fire Safety.**Sec. 6-91 Observance of Fire Lanes.**

(a) The establishment and marking of emergency fire lanes shall be in accordance with Division VIII of this Code or other laws providing for the establishment of no-parking zones which are in force at the time of the establishment and marking of said emergency fire lanes.

(b) The parking, stopping or standing of any personal property, specifically including vehicles, by any person, or any other means of obstructing fire lanes on private and public property shall be prohibited at all times. (Ord. No. 91-50, § 5-51, 2-3-92)

Sec. 6-92 Fire Lines and Limits.

The Fire Chief or the highest officer in charge in any fire area, or the Police, shall be empowered to create an area where only firefighters, police officers and those having an interest in any property may be admitted, and may rope and guard such area and the streets therein from the general public. It shall be a violation of this Section for anyone to cross such fire lines or limits unless permitted to do so by the Fire or Police Department. (Ord. No. 91-50, § 5-52, 2-3-92)

Sec. 6-93 Unlawful Interference.¹⁶

(a) Fire Equipment Keys.

It shall be unlawful to make or cause or permit to be made or possess any key or keys for buildings designated for use by the Fire Department, except upon the written order of the Fire Chief. It shall also be unlawful for any person to fail or refuse to surrender possession of any such keys upon demand of the Fire Chief.

(b) Obstructing Fire Department.

(1) It shall be unlawful to hinder or obstruct, or attempt to hinder or obstruct, any part of the fire apparatus while the same is being taken to or from a fire or in use at a fire, or to in any way obstruct or interfere with the use of any water supply used by the fire force, or to hinder or prevent any firefighter from performing his work relating to or about any fire.

(2) A minimum of twelve (12) feet of clear space shall be maintained around the circumference of any fire hydrant except as otherwise required or approved by the Fire Chief.

(c) Injuring Hose.

It shall be unlawful to drive or park a motor vehicle or railroad locomotive over any hose laid in any street in the vicinity of any fire or while in use for any other purpose, or in any other way to interfere with the use of such hose. (Ord. No. 91-50, § 5-53, 2-3-92)

¹⁶ I.C. , 35-44-3-8 addresses obstructing a Fire Fighter.

Sec. 6-94 Tampering with Fire Equipment.

No person shall molest, tamper with, damage or otherwise disturb any apparatus, equipment or appurtenance belonging to or under the supervision and control of the Fire Department without authority from the Fire Chief. (Ord. No. 91-50, § 5-54, 2-3-92)

Sec. 6-95 Tampering with Fire Hydrant or Fire Appliance.

No person shall remove, tamper with or otherwise disturb any fire hydrant or fire appliance required to be installed or maintained under the provisions of this Code except for the purpose of extinguishing fire, training purposes, recharging, or making necessary repairs, or when permitted by the Fire Department or Indiana Cities Water Corporation. No fire hydrant shall be painted without the prior authorization of Indiana Cities Water Corporation, its successors and assigns, and no shrubbery shall be permitted to grow within twelve (12) feet of any fire hydrant. No fence or post shall obstruct the use of the fire hydrant by the Fire Department. When a fire appliance is removed as herein permitted, it shall be replaced or reinstalled as soon as the purpose for which it was removed has been accomplished. (Ord. No. 91-50, § 5-55, 2-3-92)

Sec. 6-96 Key Box.

When access to or within a structure or an area is unduly difficult because of secured openings or where immediate access may be necessary for life-saving or fire-fighting purposes, the Fire Chief may require a key box to be installed in an accessible location. The key box shall be of a type approved by the Fire Chief and shall contain keys to gain necessary access as required by the Fire Chief. It shall be the responsibility of the Fire Chief to maintain a list of all structures with a key box and all persons possessing keys to those key boxes. The key to said key boxes shall be a non-reproducible key registered to the Greenwood Fire Department. (Ord. No. 91-50, § 5-56, 2-3-92)

Sec. 6-97 Painting of Hydrants.

- (a) City Hydrants. All City hydrants shall be painted Safety Yellow.
- (b) Private Hydrants. All private hydrants shall be painted Fire Protection Red, in accord with Indiana Cities Water Corporation requirements.
- (c) All hydrants shall be color-coded according to flow in accord with NFPA 291, which is incorporated by reference.
- (d) All hydrants shall be painted at least each ten (10) years after installation date or as needed. (Ord. No. 91-50, § 5-57, 2-3-92)

Sec. 6-98 Inspection of Private Hydrants.

- (a) Hydrants not inspected and tested by the Indiana Cities Water Corporation on an annual

basis shall be inspected and tested by a sprinkler testing company to verify flow and proper operation, at least annually. The owner will maintain a copy of the test certification on the premises, and send copies to the Greenwood Fire Department and the Indiana Cities Water Corporation. All hydrants shall be maintained in proper working order.

b) Maintenance to be performed by the sprinkler test company should consist of greasing outlets, greasing stem, and flow testing the hydrant. (Ord. No. 91-50, § 5-58, 2-3-92)

Sec. 6-99 through 6-101 Reserved for Future Use.

**Division V. Installation and Maintenance of Fire Protection, Life Safety Systems
and Appliances.**

Sec. 6-102 When Required, Types.

(a) Each Class I structure, assembly building, educational occupancy and institutional occupancy as defined in this Code, and in the kitchen area of each unit of each Group R Occupancy, as defined by 675 IAC 13-2-1 *et seq.*, laundry room, clubhouse, maintenance room and building used for storage, shall install and maintain fire appliances as are suitable to the type of occupancy and probable class of fire.

(b) The appliances shall include, but not be limited to, fire hydrants, fixed, wheeled or portable fire extinguishers of a type suitable for the probable class of fire. In especially hazardous processes or areas, or accessible storage, appliances of more than one (1) type may be required or special systems may be required to be installed. (Ord. 92-25, § 5-61, 6-1-92)

Sec. 6-103 Minimum Standards of Adequacy.

The Fire Chief or his authorized representative shall designate the type and location of suitable fire appliances. The minimum standards of adequacy to be applied are those specified in the following NFPA National Fire Codes, as amended as of January 1 of the year in which the installation occurs, which are incorporated by reference:

- (a) No. 11A, "Medium and High Expansion Foam Systems";
- (b) No. 17, "Dry Chemical Extinguishing Systems";
- (c) No. 17A, "Wet Chemical Extinguishing Systems";
- (d) No. 18, "Wetting Agents";
- (e) No. 50A, "Gaseous Hydrogen Systems at Consumer Sites";
- (f) No. 50B, "Liquefied Hydrogen Systems at Consumer Sites";
- (g) No. 72G, "Notification Appliances for Protective Signaling Systems";
- (h) No. 72H, "Testing Procedures for Local, Auxiliary, Remote Station and Proprietary Protective Signaling Systems";
- (i) Sections 3-6.2.2 and 3-7.5 of No. 1141, "Fire Protection and Planned Buildings Groups".

(Ord. No. 92-25, § 5-62, 6-1-92)

Sec. 6-104 Service of Fire Extinguishers.

(a) Portable fire extinguishers with a readable pressure gauge shall be visually inspected monthly to check for any discharge of agent, loss of air pressure, blockage of nozzles or any physical damage to the extinguisher. If any defects are found, the extinguisher shall be serviced by a fire extinguisher company.

(b) All fire extinguishers shall be tested by a service company at least annually to insure that they conform to NFPA standards. (Ord. No. 91-50, § 5-63, 2-3-92)

Sec. 6-105 Installation of Kitchen Ventilation and Extinguishment Equipment.

(a) The installation of kitchen ventilation and extinguishment equipment shall be in accord with the provisions of the Indiana Mechanical Code, 675 *IAC* 18, which is incorporated by reference.

(b) Any company installing kitchen ventilation and extinguishment equipment shall provide a certification that their installation meets the requirements of the Indiana Mechanical Code, to be filed with the inspection report of that occupancy at the Division office. (Ord. No. 92-25, § 5-64 (a)-(b), 6-1-92)

(c) The installer shall be certified by the manufacturer before installing or servicing any ventilation or extinguishment system. The installer shall provide a copy of such certification, which shall be kept on file at the Division office.

(d) The installer shall notify the Fire Prevention Division at least twenty-four (24) hours in advance to witness the required test. (Ord. No. 91-50, § 5-64 (c)-(d), 2-3-92)

Sec. 6-106 through 6-109 Reserved for Future Use.

**Division VI. Fire Alarm/Detection Systems, Fire Reporting
and False Alarms.**

Sec. 6-110 Supervision of Alarm Systems.

Fire alarm and detection systems shall be supervised by an approved central, proprietary or remote station, or shall provide a local alarm at a constantly attended location, as approved by the Chief, unless specified otherwise in this Code. (Ord. No. 91-50, § 5-71, 2-3-92)

Sec. 6-111 Maintenance of Alarm System.

(a) Alarm systems shall be tested monthly, and by a service company at least annually. A log shall be kept on file for review by the Division containing the following information:

- (1) Date of alarm test;
- (2) Time of alarm test;
- (3) Location where alarm was tested;
- (4) Name of person doing test;
- (5) Alarm company name.

(b) Alarm systems shall be maintained in good working order at all times. (Ord. No. 91-50, § 5-72, 2-3-92)

Sec. 6-112 Notification of Alarm Activation.

The Fire Department shall be notified of the activation of any alarm. The Fire Chief may require an automatic notification device to be installed in certain occupancies, including:

- (a) Educational occupancies;
- (b) Churches or other assembly buildings;
- (c) Institutional occupancies; (Ord. No. 91-50, § 5-73, 2-3-92)
- (d) Class I structures. (Ord. No. 92-25, § 5-73 (d), 6-1-92)

Sec. 6-113 Faulty Alarms.

Whenever the Fire Department is dispatched three (3) or more times in a calendar year to a building or premises, where such alarm was activated as a result of improper installation or improper maintenance, or if Fire Department is not notified in advance that such alarm is a drill

or test, a service charge of Fifty Dollars (\$50.00) may be imposed for each piece of fire apparatus dispatched to the building or premises. (Ord. No. 91-50, § 5-74, 2-3-92)

Sec. 6-114 Fire Reporting.

In the event a fire occurs on any property, the owner or occupant shall immediately report such fire to the Fire Department. (Ord. No. 91-50, § 5-75, 2-3-92)

Sec. 6-115 False Alarms.

(a) For the purpose of this Section, a fire alarm shall be deemed and construed as being any act as follows: The giving, signaling or transmission to any public fire station or company or to any officer or employee thereof, whether by telephone, spoken word or otherwise, information to the effect that there is a fire, at or near the place indicated by the person giving, signaling or transmitting such information.

(b) It shall be unlawful for any person to tamper with or injure any fire alarm equipment maintained for the purpose of transmitting fire alarms to the Fire Department.

(c) Nothing in this Section shall prohibit the sounding of any such signal essential for the carrying on of any fire drill. The Fire Chief must be notified at least 24 hours in advance when a fire drill is to take place. (Ord. No. 91-50, § 5-76, 2-3-92)

Sec. 6-116 General Requirements.

(a) Fire alarm systems shall be installed in a workmanlike manner and in accordance with the specifications and standards specified in this Chapter and approved by the Fire Chief.

(b) All equipment, devices, and wiring shall be listed or approved by Underwriters Laboratories or other approved independent testing company, and shall be approved for the purposes for which such equipment, wiring and devices are intended. No one shall modify any device in a way which would void its listing.

(c) All wiring shall be done in accordance with the Indiana Electrical Code sections pertaining to Fire Alarm Signaling Circuits, and any other applicable laws. (Ord. No. 91-50, § 5-77 (a)-(c), 2-3-92)

(d) The fire alarm control panel shall be installed near the main entrance in the location required by the Fire Department and shall have a constantly visible indicator showing that the system is in normal condition. (Ord. No. 92-25, § 5-77 (d), 6-1-92)

Sec. 6-117 Central Station Systems.

Only central stations which provide evidence of compliance with the requirements of NFPA 71, which is incorporated by reference, shall be used for monitoring required fire alarm systems. (Ord. No. 92-25, § 5-78, 6-1-92)

Sec. 6-118 Sprinkler System Supervision.

Sprinkler systems shall be supervised in accordance with NFPA 13, 13R and 72, which are incorporated by reference. (Ord. No. 92-25, § 5-79, 6-1-92)

Sec. 6-119 Alarm Signage.

When an alarm system is not directly connected to an approved monitoring station, a permanent sign shall be posted above external alarm. The sign shall read, in three (3) inch white letters on dark background:

**WHEN ALARM SOUNDS
CALL FIRE DEPARTMENT
911**

or, in an area not served by 911:

**WHEN ALARM SOUNDS
CALL FIRE DEPARTMENT
888-8675**

in the Greenwood response area, and

**WHEN ALARM SOUNDS
CALL FIRE DEPARTMENT
881-3600**

in White River Township. (Ord. No. 91-50, § 5-80, 2-3-92)

Sec. 6-120 Reset Instructions.

(a) A set of instructions on methods to reset the alarm after an alarm or trouble condition signal has been given shall be posted adjacent to the panel. The instructions shall be protected from moisture or other damage.

(b) The alarm disconnect switch shall be clearly marked within the electrical panel where it is located. (Ord. No. 91-50, § 5-81, 2-3-92)

Sec. 6-121 Fire Alarm Signage.

(a) A clearly marked pictograph of the building layout indicating fire alarm zones shall be positioned adjacent to the alarm panel, at the main entrance, or in other location as specified by the Fire Chief or his authorized representative.

(b) When required by the Fire Chief or his authorized representative, the pictograph shall be a light annunciator panel.

(c) The pictograph shall also describe the location of sprinkler risers and any detection devices, pull stations, fire wall(s), and hose cabinets.

(d) When the alarm panel is inside of a room, on the outside of the door shall be posted a sign which reads "**FIRE ALARM CONTROL PANEL**", in red one (1) inch letters on white background.

(e) A key to the alarm panel shall be on the premises.

(f) The installer shall notify the Fire Prevention Division at least twenty-four (24) hours in advance for required test. (Ord. No. 91-50, § 5-82, 2-3-92)

Sec. 6-122 through 6-124 Reserved for Future Use.

Division VII. Hazardous Materials.**Sec. 6-125 Hazardous Materials Information Vault.**

(a) An approved hazardous information vault shall be provided at all buildings or areas that are subject to hazardous material regulations of the Fire Code or the Indiana Fire Prevention Code.

(b) The hazardous material information vault shall be of a type approved by the Fire Chief or his authorized representative. The vault shall be keyed in a similar manner as the key boxes in Division IV, Section 6-96 above.

(c) The vault shall be placed in a location approved the Fire Chief or his authorized representative. (Ord. No. 91-50, § 5-86, 2-3-92)

Sec. 6-126 Authority to Restrict Storage Handling and Sale.

The Fire Chief or his authorized representative may restrict the storage, handling and sale of hazardous materials in accord with Indiana Fire Prevention Code Article 80. (Ord. No. 91-50, § 5-87, 2-3-92)

Sec. 6-127 Material Safety Data Sheets.

Any person who uses, stores, manufactures, or sells a regulated hazardous material (hereinafter "**user**"), shall in addition to all applicable State and Federal laws, be subject to the following reporting requirements:

(a) The supplier is required to provide to the user of a listed material, including but not limited to materials such as gasoline, propane, fertilizers and pesticides, a legible copy of the Material Safety Data Sheet, a copy of which shall be sent to the Fire Department.

(b) If the Fire Chief or his authorized representative deems there is a sufficient quantity of hazardous materials present, he will request the user to maintain a separate file, the location of which is known to designated employees. This file will contain copies of the Material Safety Data Sheets for all materials on site. This requirement is met by the user's "**Employee Right to Know Program**", if the user has such a program.

(c) As new materials are brought onto the premises, a copy of the Material Safety Data Sheet is to be sent to the Fire Department. The Fire Department shall be notified of any materials that are no longer on site. (Ord. No. 91-50, § 5-88, 2-3-92)

Sec. 6-128 Storage Facilities.

The storage of hazardous materials shall meet the requirements of Indiana Fire Prevention Code Article eighty (80). (Ord. No. 92-25, § 5-89, 6-1-92)

Sec. 6-129 Standards for the Handling and Storage of Gases Adopted.

The storage, handling and use of flammable and designated nonflammable gases and the design, construction, installation, location and use of designated equipment, tools and gas systems shall be in conformity with the Indiana Fire Prevention Code and standards promulgated by the NFPA, which standards are incorporated by reference. The specific NFPA standards adopted are as follows:

(1) NFPA No. 50A, "Gaseous Hydrogen Systems at Consumer Sites";

(2) NFPA No. 50B, "Liquefied Hydrogen Systems at Consumer Sites"

(Ord. No. 92-25, § 5-90, 6-1-92)

Sec. 6-130 Vehicles Carrying Hazardous Materials.

The Fire Chief shall have the authority to designate routes within the City which may be used by vehicles which carry hazardous materials. When such routes are marked by appropriate road signs, vehicles carrying such materials shall use the designated routes only. (Ord. No. 91-50, § 5-91, 2-3-92)

Sec. 6-131 through 6-134 Reserved for Future Use.

Division VIII. Fire Lanes.**Sec. 6-135 Fire Lanes or Emergency Vehicle Lanes-Penalties.**

The provisions of Sections 6-135 (a) and (c) shall apply to new construction only.

(a) No person shall park, stand or store any personal property, including motor vehicles, in any lane, alley, private or public parking lot, driveway or service area within twelve (12) feet of any building, or accessory structure or sidewalk which is immediately adjacent to or attached to any building, where such building is occupied by more than two (2) families, and each dwelling unit does not have a separate driveway, or is occupied for commercial, professional, religious, or similar occupancies or assemblies, in such a manner as to obstruct free passage of Fire Department vehicles, police cars, emergency or rescue vehicles, or any other vehicle performing a public or emergency function, or in such manner as to obstruct free passage of any other vehicle through or over such restricted areas.

(b) Where there are areas inaccessible to vehicle traffic around new or existing buildings, the restricted area of twelve (12) feet shall be measured from the inaccessible areas abutting the lane, alley, privately-owned or public parking lot, driveway, or service areas and a twelve (12) foot lane established so as to permit free and continuous passage of vehicles.

(c) The Fire Chief or his authorized representative shall, to the greatest extent feasible, inspect the area surrounding all Class I structures and the Fire Chief or his authorized representative shall determine and establish the emergency vehicle lanes, and notify the property owners affected thereby in writing.

(d) Parking signs and painted fire lanes on private property shall be established in a manner consistent with the Indiana Manual on Uniform Traffic Control Devices and shall be done by, and at the expense of, the owner or other person in possession or control of the property.

(e) Fire lanes shall be established and marked as follows:

(1) Fire lanes shall be twelve (12) feet from the sidewalk, driveway, service area or areas immediately adjacent to any building or structure as deemed necessary by the Fire Chief or Fire Inspector;

(2) The pavement of the fire lane shall be marked with the words "**NO PARKING--FIRE LANE**" in large visible letters and a stripe of no less than four (4) inches in width installed twelve (12) feet from the sidewalk, curb, or other item adjacent to the building;

(3) All curbs, striping and language required on pavement shall be marked in yellow coloration with paint or other types of substances that may be approved by the Fire Chief or his authorized representative;

(4) Signs stating "**NO PARKING--FIRE LANE**" meeting the requirements of the Indiana Manual of Uniform Traffic Control Devices, shall be installed no less than every thirty (30) feet apart.

(f) Any vehicle or other personal property found to be obstructing a fire lane which is clearly marked and has "no parking" signs placed in clear view, shall, with the consent of the owner or other person in possession or control of the real estate where such fire lane has been established, be towed away upon the request of the Fire Chief or his authorized representative, or a police officer. The owner of such personal property shall be liable for all tow-in charges and resulting storage charges, if any.

(g) The Fire Chief or his authorized representative may determine that, because of the location of hydrants, stand-pipes or other fire prevention devices or because of the necessities of ingress and egress, any blockage constitutes a fire hazard. Areas so determined shall be designated "**tow-away zones**" and shall be so marked and posted by the owner at the Fire Chief's direction. Any vehicle parked in such zones shall be removed at the direction of the Fire Chief, his authorized representative, or a police officer.

(h) In addition to the towing charges which may be imposed under subsections (f) or (g) above, violations of any of the provisions of this Division are subject to a \$15.00 civil penalty, for the first violation in a calendar year, administered through the Ordinance Violations Bureau. (Ord. No. 91-50, § 5-96, 2-3-92)

Sec. 6-136 through 6-137 Reserved for future use.

Division IX. Automatic Fire Extinguishing Systems.**Sec. 6-138 Where Required.**

(a) Automatic fire extinguishing systems, as defined by Section 9-103 of the Indiana Fire Prevention Code, shall be installed as required by the Indiana Building Code and the Indiana Fire Prevention Code.

(b) The installer shall notify the Fire Prevention Bureau at least twenty-four (24) hours in advance to witness required tests. (Ord. No. 91-50, §5-101, 2-3-92)

Sec. 6-139 through 6-141 Reserved for future use.

Division X. Address and Premises Identification.**Sec. 6-142 Street Numbers Required.**

All buildings and premises shall have street numbers clearly marked in characters not less than four (4) inches high, on a contrasting background, either on the face of the building or painted on the curb immediately in front of the building, such that they are clearly visible from the street. When the numbers of a building or of each individual occupancy within a building are not visible from the street or when more than one building is on site or uses an access roadway or driveway, provision shall be made to clearly identify which driveway or roadway serves the appropriate address, and a sign shall be provided at the street indicating the numbers of the premises served. (Ord. No. 91-50, § 5-106, 2-3-92)

Sec. 6-143 Placement of Street Numbers.

When required by the Fire Chief or his authorized representative, these numbers shall be on the rear entrance or rear access door of Class I structures with more than one (1) tenant space. (Ord. No. 91-50, § 5-107, 2-3-92)

Sec. 6-144 Size.

All tenant spaces shall be lettered and/or numbered at the main entrance of the unit. The letter size shall meet the requirement of Section 6-142, and all rooms shall be marked (furnace, storage, laundry, electrical, maintenance, etc.). (Ord. No. 91-50, § 5-108, 2-3-92)

Sec. 6-145 Penalty.

Violation of any of the provisions of this Division are subject to the jurisdiction of the Ordinance Violations Bureau, and are subject to a civil penalty of \$15.00 for a first offense in a calendar year. (Ord. No. 91-50, § 5-109, 2-3-92)

Sec. 6-146 through Sec. 6-149 Reserved for Future Use.

Division XI. Automatic Detection Devices.**Sec. 6-150 Automatic Detection Devices Required.**

Automatic detection devices, which include smoke, heat, flame and gas detectors as defined by this Division, shall be installed in all occupancies when required by the Indiana Fire Prevention Code and Indiana Building Code and by any other laws and ordinances, and shall be maintained in proper working order at all times. (Ord. No. 91-50, § 5-116, 2-3-92)

Sec. 6-151 Definitions.

Definitions used in this Division:

(a) The term **DWELLING UNIT** means a structure, building, area, room, or combination of rooms, occupied by not more than one (1) family for sleeping or living. This term shall include both single and multiple family dwelling units. (Ord. No. 92-25, § 5-117 (a), 6-1-92)

(b) The term **SLEEPING AREA** means a bedroom or room intended for sleeping, or combination of bedrooms or rooms intended for sleeping within a dwelling unit which are located on the same floor and are not separated by another habitable room, hallway or closet. A dwelling unit may have more than one (1) sleeping area. This term does not include common usage areas in structures with more than one (1) dwelling unit, such as corridors and lobbies.

(c) The term **SMOKE DETECTOR** means a device which detects visible or invisible particles of combustion, and conforms to the minimum standards prescribed by the NFPA. (Ord. No. 91-50, § 5-117 (b)-(c), 2-3-92)

(d) The term **HEAT DETECTOR** means a device which responds to the convective and radiant thermal energy of a fire. (Ord. No. 92-25, § 5-117 (d), 6-1-92)

(e) The term **FLAME DETECTOR** means a device that detects the infrared, ultraviolet or visible radiation produced by a flame.

(f) The term **GAS DETECTOR** means a device that detects gases produced by a fire.

(g) The term **COMPLETE DETECTION SYSTEM** means a system of automatic detection devices or combination of systems which are to be provided to all common areas, work areas or other areas which may be occupied. (Ord. No. 91-50, § 5-117 (e)-(g), 2-3-92)

Sec. 6-152 General Requirements.

(a) The owner of each new and existing dwelling unit shall install smoke detectors as required by this Article.

(b) The owner of each dwelling unit shall install smoke detectors as required by this

ordinance within ninety (90) days of the effective date of this ordinance.

(c) No residential property may be sold or traded in the City of Greenwood, Indiana, unless and until the seller installs or provides for installation of smoke detectors in accordance with Section 6-154 below, as applicable. This requirement may be met by the seller placing in an escrow account for the buyer sufficient funds to pay for said installation. (Ord. No. 91-50, § 5-118 (a) - (c), 2-3-92).

(d) The owner of each Class I structure which is substantially rehabilitated under a building permit issued after the effective date of this ordinance shall install automatic detection devices as required by law. (Ord. No. 93-5, § 5-118 (d), 2-15-93).

Sec. 6-153 Locations of Detectors.

(a) The owner of each one- and two-family residence shall install at least one (1) smoke detector to protect each sleeping area and each floor level. The owner shall install the smoke detector outside the bedroom but in the immediate vicinity of the sleeping area. (Ord. No. 91-50, § 5-119 (a), 2-3-92)

(b) Smoke detectors shall be installed according to the requirements of *I.C.*, 22-11-18-3.5, as amended. (Ord. No. 92-25, § 5-119, 6-1-92)

(c) Smoke detectors may not be installed in a dead air space, such as where the ceiling meets the wall. (Ord. No. 91-50, § 5-119 (c), 2-3-92)

(d) The installation of any automatic detection device or system in a Class I structure shall meet the requirements of NFPA 72E and *I.C.*, 22-11-18, *et seq.*, as amended, which are incorporated by reference. For each dwelling unit in a Class I structure, smoke detectors shall be installed according to the requirements of *I.C.*, 22-11-18, *et seq.*, as amended. (Ord. No. 92-25, § 5-119 (d), 6-1-92)

Sec. 6-154 Equipment.

(a) Except as provided in subsection (b) of this Section and the Indiana Building Code, smoke detectors installed pursuant to this Division shall be directly wired to the power of the building. (Ord. No. 92-25, § 5-120 (a), 6-1-92)

(b) In each dwelling unit which is in existence on the date of passage of this ordinance, the owner may install a battery-powered smoke detector, or a plug-in or direct-wired smoke detector to fulfill the requirements of Section 6-152 of this Division. (Ord. No. 91-50, § 5-120, (b), 2-3-92)

Sec. 6-155 Maintenance.

An owner of a one- or two-family residence shall maintain each smoke detector in a reliable operating condition and make periodic inspections and tests, not less than once every six (6) months to insure that each detector is in proper working condition. The owner of any Class I structure shall maintain all automatic detection devices in proper working order, and shall have such devices tested annually by a service company. A copy of the test results shall be filed with the Division. (Ord. No. 91-50, § 5-121, 2-3-92)

Sec. 6-156 Failure to Comply.

(a) Failure of any person to comply with the provisions of this Article regarding one- or two-family dwelling units within ninety (90) days of the effective date of this Ordinance shall subject the owner of a civil penalty of fifteen dollars (\$15.00) for the first offense in a calendar year, under the jurisdiction of the Ordinance Violations Bureau. (Ord. No. 92-25, § 5-122 (a) 6-1-92)

(b) Failure of any person to comply with any other provision of this Article within ninety (90) days of the effective date of this Ordinance shall subject the violator to the general penalty provisions of *Greenwood Municipal Code* Section 1-13. (Ord. No. 91-50, § 5-122 (b), 2-3-92)

Sec. 6-157 through Sec. 6-159 Reserved for Future Use.

Division XII. Miscellaneous Provisions.**Sec. 6-160 Occupant Capacity Signs.**

(a) Any room having an occupant load over fifty (50) or more, used for classroom, assembly, or similar purpose, without fixed seats, shall have the occupant load posted at the main exit of the room or in a place designated by the Fire Chief or Fire Inspector.

(b) No person shall permit overcrowding or admittance of any person beyond the approved capacity of any place of public assembly. Upon finding overcrowding or obstruction of aisles or other passageways of egress or exits, the Fire Chief or his authorized representative shall stop such function until such condition is corrected. (Ord. No. 91-50, § 5-126, 2-3-92)

Sec. 6-161 Emergency Information Forms.

Emergency information forms shall be filled out by each building owner and occupant and returned to the Greenwood Fire Department. These forms shall be provided by the Greenwood Fire Prevention Office. (Ord. No. 91-50, § 5-127, 2-3-92)

Sec. 6-162 Underground Storage Tanks.

Notice shall be given to the Fire Chief or his designated representative at least 24 hours in advance whenever any underground storage tank subject to the provisions of *I. C.*, 13-7-20-1 *et seq.*, as amended, is installed, tested, retrofitted, removed or closed. (Ord. No. 92-25, § 5-128, 6-1-92)

Sec. 6-163 Through Sec. 6-169 Reserved for Future Use.

ARTICLE 5. PARADES AND TEMPORARY STREET CLOSURES.**Sec. 6-170 Definitions.**

The definitions in this Section apply throughout this Article.

PARADE means any march or procession consisting of people, animals or vehicles, or any combination thereof, except funeral processions, upon any public street, sidewalk or alley, which does not comply with normal and usual traffic regulations and controls.

MOTORCADE means an organized procession containing twenty-five (25) or more vehicles, except funeral processions, upon any public street, sidewalk or alley.

TEMPORARY STREET CLOSURE shall mean a block party, local special event, festival, celebration, concert, or any similar occurrence to be conducted within an area containing one (1) or more city blocks or intersections and which is sponsored solely by the owners or residents of the area, or their organization.

Any parade, motorcade or temporary street closure authorized in whole or in part by the City for municipal purposes, including, but not limited to, conveyance of traffic, travel, or facilitating of an event of a general public or civic nature, is exempt from this Article. (Ord. No. 91-15, § 2, 5-20-91)

Sec. 6-171 Regulations.

No person, firm, corporation or organization shall:

(a) Conduct a parade or motorcade upon any public street, sidewalk or alley, or participate in, advertise for, or in any way promote, control, solicit or induce participation in a temporary street closure unless a permit has first been obtained from the Clerk-Treasurer; or

(b) Violate any of the terms of a permit issued under this Article; or

(c) Join or participate in any permitted activity under this Article over the objection of the permit holder; or

(d) In any manner interfere with the progress and orderly conduct of any activity permitted under this Article. (Ord. No. 91-15, § 3, 5-20-91)

Sec. 6-172 Application for Permit-Fee.

An application for a permit for a parade or motorcade or temporary street closure shall be made upon a form provided by the Clerk-Treasurer and accompanied by the payment of a permit application fee of Twenty-Five Dollars (\$25.00) for a parade or motorcade and Five Dollars (\$5.00) for a temporary street closure. The Clerk-Treasurer shall forward the application to the

Chief of Police. The application shall contain all of the following information:

(a) The name, residence and business address, and residence and business phone number of each person and organization sponsoring the parade, motorcade or temporary street closure, and of each person and organization who will be engaged in promoting, controlling or soliciting participation in such parade, motorcade or temporary street closure;

(b) The purpose of the parade, motorcade or temporary street closure;

(c) The date when the parade, motorcade or temporary street closure will be conducted, the location of the assembly area, location of the disbanding area, the route to be traveled, or street or intersection to be closed, and the approximate time when the event will begin and end;

(d) The estimated number of people who will participate;

(e) Whether parking is requested to be restricted or prohibited during the event;

(f) Whether or not charity, gratuity, or offerings will be solicited or accepted, or sales of food, beverages or other merchandise will occur;

(g) A description of the type and number of individual floats, marching units, vehicles, bands, and whether any sound amplification equipment is proposed to be used, and, if so, information describing such sound amplification. No sound amplification equipment shall be used in any way contrary to City ordinances. Materials used in construction of floats used in any parade shall be of fire-retardant materials, and shall be subject to such fire safety requirements as the Fire Chief determines are reasonable.

(h) Such other information as the Chief of Police deems reasonably necessary in order to carry out his duties under this Article. (Ord. No. 91-15, § 4, 5-20-91)

Sec. 6-173 Barricades and Warning Devices.

Applicants shall provide and remove such barricades and warning devices as are deemed necessary by and are acceptable to the Chief of Police. Applicants shall also provide for the collection and removal of all trash, garbage, and litter caused by or arising out of such parade, motorcade or temporary street closure. In lieu of providing the above, and at the City's discretion, as determined by the Chief of Police and the head of the Street Department, applicants may enter into a written agreement with the City for provision of such services by the City. Such agreement shall be in a form approved by the City Attorney. (Ord. No. 91-15, § 5, 5-20-91)

Sec. 6-174 Deposits with the Clerk-Treasurer.

Applicants shall pay to the City the cost of City personnel, such cost being the equivalent of the amount due as determined by the annual salary ordinance, who are required by the City to work

or perform duties during or as a result of such parade, motorcade or temporary street closure. Applicants shall deposit with the Clerk-Treasurer a sum in an amount estimated by the Chief of Police prior to issuance of a permit. (Ord. No. 91-15, § 6, 5-20-91)

Sec. 6-175 Hold Harmless.

Applicants shall agree in writing to assume the defense of and indemnify and save harmless the City, its Councilmen, Boards, Commissions, officers, employees and agents, from all suits, actions, damages or claims to which the City may be subjected, of any kind or nature whatsoever arising from, caused by, arising out of or as a consequence of such parade, motorcade or temporary street closure, and the activities permitted in connection therewith. (Ord. No. 91-15, § 7, 5-20-91)

Sec. 6-176 Further Conditions.

Any permit granted under this Article may contain conditions reasonably calculated to reduce or minimize the inconvenience or danger to vehicular or pedestrian traffic, and to the public health, welfare, safety, morals or tranquillity, including, but not limited to, changes in time, location, route, duration, number of participants or noise levels. The permittee will advise all participants either orally or by written notice, of the terms and conditions of the permit, prior to commencement of a parade or motorcade. (Ord. No. 91-15, § 8, 5-20-91)

Sec. 6-177 Police Chief's Findings.

A permit shall be issued by the Clerk-Treasurer, as recommended by the Chief of Police, when, from consideration of the application and from such other information as may be obtained, the Chief of Police finds that all of the following circumstances exist:

(a) The applicant has not knowingly and with intent to deceive, made any false or misleading statements of material fact in the application, or any other document required pursuant to this Ordinance; and

(b) The applicant has met the standards in this Article, and has paid in advance any fee and deposit required, and agrees in writing to such conditions as are imposed in the permit; and

(c) The time, duration and size of the parade or street closure will not substantially disrupt the orderly and safe movement of other traffic; and

(d) The parade or street closure is not of such a size or nature that it will require the diversion of so great a number of police officers as to prevent normal police protection to the City; and

(e) The concentration of persons will not unduly interfere with proper fire, police and ambulance services to contiguous areas, or with the orderly operation of parks, hospitals, churches, schools or other public or quasi-public institutions in the City; and

(f) The parade or street closure is not proposed to be held for the sole purpose of advertising any product, goods, or merchandise, nor is designed to be held purely for private profit. (Ord. No. 91-15, § 9, 5-20-91)

Sec. 6-178 Appeal Procedures.

Application for a permit for a parade shall be made at least thirty (30) days in advance of the intended parade. Application for a motorcade or temporary street closure shall be made at least ten (10) days in advance of the event. Upon denial of a permit by the recommendation of the Chief of Police or by failure of the Clerk-Treasurer to issue a permit, the applicant may appeal from such denial by filing a written notice of appeal for hearing by the Greenwood Board of Public Works and Safety at its next meeting. Upon such appeal, the Board of Public Works and Safety may reverse, affirm or modify in any regard the determination of the Chief of Police or the actions of the Clerk-Treasurer. (Ord. No. 91-15, § 10, 5-20-91)

Sec. 6-179 Waiver of Time Limits; Revocation.

For good cause shown, the Clerk-Treasurer may waive the time limitation for filing an application. Any permit for a parade or street closure issued pursuant to this Article may be summarily revoked by the Chief of Police at any time when, by reason of disaster, public calamity, riot or other emergency, the Chief of Police determines that the safety of the public or property requires such revocation. Notice of such revocation shall be delivered in writing to the permittee by personal service or certified mail. (Ord. No. 91-15, § 11, 5-20-91)

Sec. 6-180 Penalty.

Any person, firm, or corporation violating the provisions of this Article or causing a person to violate the provisions of this Article shall be guilty of an offense. (Ord. No. 91-15, § 12, 5-20-91)

Sec. 6-181 through Sec. 6-269 Reserved for Future Use.

ARTICLE 6. NUISANCES.¹⁷**Sec. 6-270 Nuisances Defined.**

For the purposes of this Article, the word NUISANCE is hereby defined as the doing of an unlawful act, or the omitting to perform a duty, or the suffering or permitting of any condition or thing to be or exist, which act, omission, condition or thing either:

- (a) Injures or endangers the comfort, repose, health or safety of others; or
- (b) Offends decency; or
- (c) Is offensive to the senses; or
- (d) Unlawfully interferes with, obstructs or tends to obstruct or renders dangerous for passage any public or private street, highway, sidewalk, stream, ditch or drainage; or
- (e) In any way renders other persons insecure in life or the use of property; or
- (f) Essentially interferes with the comfortable enjoyment of life and property, or tends to depreciate the value of the property of others. (1983 *Greenwood Municipal Code*, § 10-1)

Sec. 6-271 Illustrative Enumeration of Nuisances.

The maintaining, using, placing, depositing, leaving or permitting to be or remain on any public or private property of the following items, conditions or actions are hereby declared to be and constitute a nuisance; provided, however, this enumeration shall not be deemed or construed to be conclusive, limiting or restrictive:

- (a) Vegetation which has attained a height of twelve (12) inches or more and has not been cut, mown, or otherwise removed from private property; vegetation planted for some useful or ornamental purpose is excepted from this definition.¹⁸
- (b) Vegetation, trees or woody growth on private property which, due to its proximity to any governmental property, right-of-way or easements, interferes with the public safety or lawful use of the governmental property, right-of-way or easement.
- (c) A condition which causes property to become a health or safety hazard, unless specifically authorized under existing laws and regulations.

¹⁷ *I.C.*, 34-1-52-2(b) authorizes the City Attorney to bring on an action to abate or enjoin a nuisance. *I.C.*, 34-1-52.5-(d) defines the City Attorney as the "prosecuting official" and pursuant to *I.C.*, 34-1-52.5-3, authorizes the bringing of an action to abate indecent nuisances, to perpetually enjoin maintenance thereof; and to recover reasonable attorney fees.

¹⁸ *I.C.*, 36-7-10-3, authorizes the City to remove weeds or other rank vegetation, and to collect monies for such services.

(d) Accumulation of rubbish, trash, refuse, junk and other abandoned materials, metals, lumber or other things.

(e) Any condition which provides harborage for rats, mice, snakes and other vermin.

(f) Any building or other structure which is in such a dilapidated condition that it is unfit for human habitation, kept in such an unsanitary condition that it is a menace to the health of people residing in the vicinity thereof, or presents a more than ordinarily dangerous fire hazard in the vicinity where it is located.¹⁹

(g) All unnecessary or unauthorized noises and annoying vibrations, including noises.

(h) All disagreeable or obnoxious odors and stench, as well as the conditions, substances or other causes which give rise to the emission or generation of such odors and stench.

(i) The carcasses of animals or fowl not disposed of within a reasonable time after death.

(j) The pollution of any public well or cistern, stream, lake, canal or body of water by sewage, dead animals, creamery, industrial wastes or other substances.

(k) Any building, structure or other place or location where any activity which is in violation of local, state or federal law is conducted, performed or maintained.

(l) Any accumulation of stagnant water permitted or maintained on any lot or piece of ground.

(m) Dense smoke, noxious fumes, gas, soot or cinders, in unreasonable quantities.²⁰

(n) The unauthorized obstruction of any public street, road or sidewalk.

(o) Any abandoned vehicle. (Ord. No. 81-10, § 2, 5-4-81; 1983 *Greenwood Municipal Code*, § 10-2)

Sec. 6-272 Nuisances Prohibited.

It shall be unlawful for any property owner, or occupant or other person to allow a nuisance to exist. (Ord. No. 81-10, § 1, 5-4-81; 1983 *Greenwood Municipal Code*, § 10-3)

¹⁹ I.C., 36-7-9-1, *et seq.*, addresses the enforcement of building standards.

²⁰ I.C., 36-8-2-8, authorizes the regulation of air and sound.

Sec. 6-273 Abatement Procedures and Fees.

(a) The Board of Public Works and Safety may at any time require the owner and/or occupant of any property upon which a nuisance exists as herein defined to do all things necessary to remove the nuisance from such property by giving the owner and/or occupant ten (10) days' written notice to the existence of the nuisance. The notice as herein required shall state the nature of the alleged nuisance and the action deemed necessary to correct the condition and shall fix a date not sooner than ten (10) days from the date of mailing of the notice when said property owner and/or occupant may appear before the Board of Public Works and Safety to be heard on the question of the nuisance. All notices as herein required shall be sent by first class U.S. mail, postage prepaid, to the occupant or owner at the address of the property, if it be a dwelling, and to the last known address of the owner as reflected in the tax rolls of the City, Pleasant Township, or the county. Upon the failure of the owner and/or occupant to cause the abatement of the nuisance as required by this Section, and after notice and opportunity for hearing before the Board of Public Works and Safety, the Board shall proceed at once to cause the nuisance to be abated and charge the cost thereof against such owner and/or occupant of said property. The liability created herein shall be joint and several as to the owners and any occupants or tenants.

(b) In the event that the Board of Public Works and Safety, or its designee, shall cause to be abated a nuisance on any property, then as compensation to the City for its services in causing the abatement, the owner and/or occupant shall be charged the following fees:

(1) Ten Dollars (\$10.00) for each inspection necessary to determine compliance with the provisions of this Article.

(2) Ten Dollars (\$10.00) for determining private property ownership when necessary.

(3) Three Dollars (\$3.00) for each time a first class letter is written to the occupant or owners.

(4) Twenty Dollars (\$20.00) per man hour, or fraction thereof, for labor necessary to abate the nuisance.

(5) Fifty Dollars (\$50.00) per machine hour, or fraction thereof, for the use of each piece of equipment used in abating the nuisance. (Ord. No. 81-10, § 3, 5-4-81; 1983 *Greenwood Municipal Code*, § 10-4)

Sec. 6-274 Collection of Fees.²¹

The Board of Public Works and Safety shall, upon completion of all acts necessary to abate the nuisance, send a statement to the owner and/or occupant of the property notifying said owner and/or occupant of the fees and charges owing to the City for its services. Upon the failure of the

²¹ I.C., 36-1-6-2, authorizes the city to enter onto real property and correct Ordinance violations and obtain a lien for the same.

owner and/or occupant to pay said fees and charges in full within thirty (30) days, the Board of Public Works and Safety then may cause such charges and fees to be placed upon the tax duplicate and collected the same as taxes. The Board of Public Works and Safety may, in the alternative, refer said charges and fees to the City Attorney who shall forthwith collect the fees and charges by civil process. (Ord. No. 81-10, § 4, 5-4-81; 1983 *Greenwood Municipal Code*, § 10-5)

Sec. 6-275 Other Powers of Board of Public Works and Safety.

The Board of Public Works and Safety shall, where necessary, designate individuals and institute procedures to carry into force and effect this Article. (Ord. No. 81-10, § 5, 5-4-81; 1983 *Greenwood Municipal Code*, § 10-6)

Sec. 6-276 Article to be Supplemental.

The provisions of this Article are hereby declared to be supplemental to all other ordinances of the City. (1983 *Greenwood Municipal Code*, § 10-7)

Sec. 6-277 Noise Regulations.

1. No person shall play, use or operate, or permit to be played, used or operated, any machine or device for the producing or reproducing of sound, including, but not limited to, loudspeakers, radios, CD players, television sets, musical instruments, phonographs, cassette players or any other machine designed or intended to produce or reproduce sound, nor operate or permit to be operated, any motor vehicle that contains a modified or defective exhaust system, if such machine, device, or vehicle is located in or on any of the following:

(a) Any public property, including any public right-of-way, highway, road, street, alley, building, sidewalk, parking lot, public space, park, thoroughfare, or public transportation vehicle and the sound generated therefrom is clearly audible by another person at a distance of thirty (30) feet or more from its source; or

(b) Any private property and the sound generated therefrom is clearly audible by another person at a distance of thirty (30) feet or more outside of said private property line.

2. The following are exempted from the provisions of this Ordinance:

(a) Sounds emitted from authorized emergency vehicles.

(b) Lawn mowers, garden tractors, construction equipment, and power tools, when properly muffled, between the hours of 7:00 a.m. and 9:00 p.m. only.

(c) Burglar alarms and other warning devices when properly installed, providing the cause for such alarm or warning device sound is investigated and turned off within a reasonable period of time. (Ord. No. 99-40, § 1, 10-4-99)

(d) Parades, festivals, carnivals, fairs, celebrations, and concerts, artistic performances or other events authorized by the Board of Public Works and Safety or another appropriate governmental entity.

(e) Attendant noise connected with the actual performance of athletic or sporting events and practices related thereto.

(f) The emission of sound for the purposes of alerting persons to the existence of an emergency, or for the performance of emergency work.

(g) Sounds associated with the use of legal fireworks or celebrations of legal holidays.

(h) Sounds associated with the normal conduct of legally established non-transient businesses when such sounds are customary, incidental and within the normal range appropriate for such use.

(i) Sounds emitted from sound amplifying devices from which a permit has been obtained pursuant to Section 4-158 of the Greenwood Municipal Code.

(j) Sounds emitted for the performance of emergency work.

(k) In the case of motor vehicles, where the noise is the result of a defective or modified exhaust system, if the cause is repaired or otherwise remedied within seven (7) calendar days.

(l) Sounds associated with the use and operation of the Greenwood Municipal Airport.

3. Any person who violates the provisions of this Ordinance shall be subject to the following fines:

First offense:	\$50.00
Second offense:	\$150.00
Third offense:	\$300.00
Fourth and subsequent offenses:	\$1,000.00

Each day any violation shall continue shall constitute a separate offense.

4. Enforcement of first time offenses within a calendar year shall be subject to the jurisdiction of the Ordinance Violations Bureau. (Ord. No. 00-29, § 2, 9-6-00)

5. Enforcement of second offenses or higher within a calendar year shall be subject to the jurisdiction of the Greenwood City Court. (Ord. No. 00-29, § 2, 9-6-00)

6. A custodial parent shall be responsible for ensuring that a child under eighteen (18) years of age complies with this chapter and is responsible for any fine imposed hereunder.

7. Citations for violation of this Ordinance may be issued by any sworn member of the Greenwood Police Department and, additionally, in or on Greenwood Community Schools property only, by any sworn special police officer appointed under I.C. 36-8-3-7 to serve the Greenwood Community Schools. (Ord. No. 99-40, § 1, 10-4-99)

Sec. 6-278 through 6-284 Reserved for Future Use.

ARTICLE 7. ABANDONED VEHICLES.²²**Sec. 6-285 Police Department's Authority Over Abandoned Vehicles.**

The Police Department is designated as the “**public agency**” within the meaning of *I.C.*, 9-13-2-1 and *I.C.*, 9-22-1-3 which has the responsibility for removal, storage and disposal of abandoned vehicles. (1983 *Greenwood Municipal Code*, § 10-21)

Sec. 6-286 Disposition of Vehicles of Less than \$500 in Value

The market value of an abandoned vehicle or vehicle parts below which an officer of the Police Department may dispose of the vehicle or parts pursuant to *I.C.* 9-22-1-1 et seq. is Five Hundred Dollars (\$500). (Ord. 03-53, § 1, 12-15-03)

Sec. 6-287 through 6-294 Reserved for Future Use.

²² *I.C.*, 9-22-1-1 et seq., addresses abandoned vehicles.

ARTICLE 8. GARBAGE, REFUSE, AND TRASH.**Sec. 6-295 Garbage and Refuse Defined.**

(a) The term **GARBAGE**, as used in this Chapter, means rejected food wastes, and refuse accumulation of animal, fruit or vegetable matter, used or intended for food, or that attends the preparation, use, cooking, dealing in, or storing of, meat, fish, fowl, fruit or vegetable. (*Code* 1968, § 8.01; 1983 *Greenwood Municipal Code*, § 6-1)

(b) **REFUSE** includes solid and semi-solid wastes, dead animals, and offal.

Sec. 6-296 Littering Prohibited.²³

No person shall throw or place or deposit any rubbish, litter or any refuse matter or any foreign matter of any kind in any street, sidewalk, alley or public place in the City. (*Code* 1968, § 3.03(a); 1983 *Greenwood Municipal Code*, § 6-2)

Sec. 6-297 Business Establishments Required to have Garbage Removal.²⁴

The owner or agent of any business, hotel, office or other place of business which by reason of said business accumulates garbage shall hold such in suitable containers with tight covers which shall be removed and properly disposed of from said place of business at least three (3) times each week in the months of May, June, July, August, September and October and at least two (2) times per week during the remaining months of each year. (*Code* 1968, § 8.02; 1983 *Greenwood Municipal Code*, § 6-3)

Sec. 6-298 Weekly Removal of Garbage Required at Private Residences or Dwellings.

Every person owning or controlling, whether as principal or agent, or occupying any private residence or dwelling, which by reason of said occupancy accumulates garbage shall keep such garbage in suitable containers which shall be properly disposed of at least once a week. (*Code* 1968, § 8.03; 1983 *Greenwood Municipal Code*, § 6-4)

Sec. 6-299 Rubbish Collection and Disposal Required Weekly.

Every person owning or acting as agent for any business, office, theater or other place of business, and every person owning or controlling, whether as principal or agent, or occupying any private residence or dwelling shall collect all rubbish accumulating on the premises in suitable containers and shall properly dispose of such rubbish at least weekly. (*Code* 1968, § 8.04; 1983 *Greenwood Municipal Code*, § 6-5)

²³ *I.C.*, 35-45-3-2, prohibits littering and defines it as a Class B infraction.

²⁴ *I.C.*, 36-8-2-4, permits cities to regulate conduct or use or possession of property that might endanger the public health, safety, or welfare.

Sec. 6-300 Requirements for Transportation of Garbage.

(a) If in the disposal of garbage, it becomes necessary to transport the same within the City, such garbage shall be transported only in tight, covered containers.

(b) No person shall haul on any street or alley any rubbish, ashes, earth, sand, stone, or other material liable to become scattered on the streets, except in a vehicle provided with a closed or open box well-closed on the sides so as to retain such materials. No person shall scatter any such materials from any vehicle upon any street or alley. (*Code* 1968, §§ 3.03(b), 8.05; 1983 *Greenwood Municipal Code*, § 6-6)

Sec. 6-301 through 6-304 Reserved for Future Use.

ARTICLE 9. TRASH COLLECTION AND CURBSIDE RECYCLING.**Sec. 6-305 Definitions.**

As used in this Article, the terms listed below shall have the following meanings:

CITY shall mean the City of Greenwood, and when used in reference to a geographic location, shall mean the corporate limits of the City of Greenwood, Indiana, including annexed areas, at the time that trash collection and curbside recycling services are rendered under any contract entered into in accordance with this Article.

CONTRACTOR shall mean the successful bidder on any contract let pursuant to this Article.

RECYCLABLES or **RECYCLABLE MATERIALS** may include, for example, aluminum and bimetal cans, and clear, brown or green glass containers, or such materials as the Board of Public Works and Safety shall determine from time to time, as markets become available or unavailable.

RESIDENTIAL USER shall mean a person or household or owner of a residence, within the corporate limits of the City, which uses or has available for use the service provided, regardless of usage pursuant to this Article, whose premises or building is used primarily as a residence for one (1) or more persons. Such term shall include the individual units of a multi-family dwelling structure if each individual unit receives a separate sewer bill from the City of Greenwood Sanitation Department, unless the dwelling structure has more than eight (8) units under one roof and is part of a multi-family project complex (not including duplexes) which consists of more than three (3) dwelling structures. In that case, the multi-family dwelling is considered to be a larger-scale commercial operation and is not included in this program. (Ord. No. 92-30, § 1, 6-29-92; Ord. No. 01-26, § 1, 6-4-01)

TRASH shall mean ashes, rags, garden refuse, kitchen refuse, paper products, brush which is cut and tied in bundles, and other ordinary household waste. Such term shall not include grass clippings or leaves, furniture, appliances, trees, limbs, construction or demolition debris, paint, oil, batteries, and other hazardous waste. Additionally such term shall not be confused with the term “heavy trash” which may be a supplemental service under this program and which would be as defined in the bid or quote documents requesting such services and the resulting services contract(s). (Ord. No. 92-30, § 1, 6-29-92; Ord. No. 97-12, § 1, 4-21-97)

Sec. 6-306 Role of Board of Public Works and Safety.

The City shall proceed with development and implementation of a trash collection and recycling program as provided in this Article for the collection, removal and/or disposal of solid waste such as but not limited to trash, heavy trash, hazardous or regulated or yard waste, and the Board of Public Works and Safety of the City of Greenwood is authorized to do all acts and execute all documents necessary to accomplish the aims of this Article, including, but not limited to the following:

(a) Solicit bids or quotes and let or execute one or more contracts to provide services under the trash collection and curbside recycling program to residential users as defined herein within the City of Greenwood.

(b) Determine the qualifications to be required of potential bidders which the Board of Public Works and Safety deems desirable, giving proper regard to experience and financial responsibility while not unduly limiting the ability of potential bidders to present creative and flexible solutions to the problems presented by the specifications.

(c) Develop bid specifications which require, at a minimum, the following:

(1) That the successful bidder(s) pick up recyclable materials and trash at least weekly from residential users within the City.

(2) That the successful bidder have the ability to use or seek markets for the recyclable materials collected.

(3) That City buildings be provided with adequate trash collection and recycling services.

(d) Develop and implement a program for eliminating yard waste (grass clippings and leaves) from the waste stream produced by citizens of the City of Greenwood pursuant to *I.C.*, 13-7-29-1 *et seq.* as amended and supplemented and consider the feasibility of a program to dispose of tree limbs and brush, and develop and implement such a program, if feasible.

As a part of one of the contracts contemplated by this Ordinance or pursuant to a separate contract of the trash collection and curbside recycling program, the Board of Public Works and Safety may contract to provide collection and chipping of a limited amount of brush and limbs per household as often as determined by the Board of Public Works and Safety, at a price or fee to be set through quoting or public bidding, plus a reasonable administrative fee, as may be appropriate as a supplemental service of the trash collection and curbside recycling program.

A trash collection and curbside recycling program component or supplemental service may also establish a price or rate, determined by bidding or quoting, at which users may purchase additional amounts of these services, for which the contractor may bill the users directly as the Board of Public Works and Safety determines.

Any such contract entered into by the Board of Public Works and Safety for this part of the trash collection and curbside recycling program will not necessarily be exclusive; users may contract privately with any provider for such additional services.

(e) Make and enforce such by-laws and regulations as may be deemed necessary for the safe, economic and efficient management of the City's trash collection and recycling program and its components or supplemental services, and for the regulation, collection, rebating and refunding of any fees and charges as may be required to implement said program services.

(f) Nothing in this Article shall be construed to prohibit the Board of Public Works and Safety, with the approval of the Common Council, to enter into interlocal cooperation agreements to provide any services which further any of the aims of the trash collection and curbside recycling program. (Ord. No. 97-12, § 2, 4-21-97)

Sec. 6-307 Department of Waste Management.

Pursuant to *I.C.*, 36-4-9-4, there is established in the City as an executive department, a Department of Waste Management, which shall be under the authority and control of the Board of Public Works and Safety. The Board of Public Works and Safety may recommend staffing, and may have some employees of the Sanitation Department provide administrative services. If Sanitation Department employees provide services, then a portion of their salaries shall be paid out of the fund established herein. (Ord. No. 92-30, § 3, 6-29-92)

Sec. 6-308 Officials Authorized.

Officials of the City of Greenwood are authorized to do all acts and execute all documents on behalf of the City which may be necessary to accomplish the aims of this Article. (Ord. No. 92-30, § 4, 6-29-92)

Sec. 6-309 Fee.

For the services available in connection with any contract for trash collection and recycling entered into pursuant to this Ordinance, a fee of Eight Dollars and Fifty Cents (\$8.50) per month shall be charged to each residential user of the service or owner of property to which the service is available, regardless of usage.

Such fee will be used to pay the costs of the services provided pursuant to the contract entered into by the Board of Public Works and Safety pursuant to Sec. 6-306 above, and shall reimburse the City for additional overhead, including the cost of additional wages and benefits, office furnishings and supplies, accounting and other professional fees, and any other expenses which are reasonably related to the administration or enforcement of the contract let upon the authority of this Ordinance.

The Board of Public Works and Safety is authorized to provide for billing and collection of fees to begin one month prior to the beginning of trash collection and curbside recycling services.

The fee shall be due not later than twenty (20) days from the date of billing.

The Board of Public Works and Safety is authorized to determine the methods and procedures to administer the Trash Collection and Curbside Recycling Program, and to collect the fees provided for herein, and may employ the City Attorney or other attorneys, agencies or

individuals to collect fees which are determined to be delinquent in accordance with I.C. 36-1-4-17.

At such times as it deems appropriate, the Board of Public Works and Safety shall review the fee and recommend changes, as may be necessary, to the Greenwood Common Council, which may amend the fee after giving public notice. (Ord. No. 97-21, § 1, 8-4-97) (Ord. No. 92-30, § 1, 6-29-92; Ord. No. 01-26, § 1, 6-4-01)

Sec. 6-310 Rebates.

The Board of Public Works and Safety or its designee is authorized to rebate to residential users the amount of fees which would otherwise be due when the user will not be in the residence to use the service for a period of at least one (1) full calendar month during any calendar year, and all of the following have occurred:

(a) The residential user has notified the appropriate authority at least seven (7) days in advance of the period when service will not be needed, or good cause exists to waive the seven (7) day requirement, as determined by the Board of Public Works and Safety or its designee; and

(b) A claim or other appropriate written request has been presented to the appropriate authority for approval.

Any such rebate granted by the appropriate authority shall be shown as a credit upon the next bill owed by the residential user. (Ord. No. 92-44, § 6, 8-31-92; Ord. No. 97-12, § 3, 4-21-97)

Sec. 6-311 Waste Management Fund.

There is established in the City a Special Non-Reverting Fund, to be known as the **WASTE MANAGEMENT FUND**, into which shall be deposited all monies received as a result of the contracts let pursuant to this Article, and from which shall be paid the costs and expenses listed in Section 6-309 above, if any, under the contracts. (Ord. No. 92-44, § 7, 8-31-92; Ord. No. 97-12, § 4, 4-21-97) (See Also Sec. 2-91 of this *Code*)

Sec. 6-312 Additional Property and Residential Uses.

The services and fees applicable to residential users shall be automatically extended to cover any additional property and residential users which are subsequently served under any contract entered into pursuant to this Article, without any additional notice, hearing or action by the Common Council. (Ord. No. 92-44, § 8, 8-31-92)

Sec. 6-313 Bag Limit.

To achieve the goals of *I.C.*, 13-7-1-1, not more than five (5) thirty (30) gallon bags, or their equivalent, shall be picked up weekly from each residential user except for limitless collection which may be provided around the Christmas holiday or other supplemental service contract which

is a part of the trash collection and curbside recycling program. The Board of Public Works and Safety may reduce the bag limits as it deems proper or may authorize the pick-up of additional bags or their equivalent for an additional fee or make other exceptions as it deems proper.

Properly prepared recyclables shall not be included in the bag limits. (Ord. No. 92-44, § 9, 8-31-92; Ord. No. 97-12, § 5, 4-21-97)

Sec. 6-314 Recyclable Materials.

Recyclable materials shall be separated from trash and shall be placed in an appropriate container which shall be placed at curbside, but not in the street, for collection at the same time that trash is picked up or the day before or following trash collection. (Ord. No. 92-44, § 10, 8-31-92; Ord. No. 97-12, § 6, 4-21-97)

Sec. 6-315 Containers.

Residential users shall place trash in appropriate plastic or metal containers not larger than 30 gallons in size at curbside, but not in the street, no earlier than 24 hours before scheduled trash pick-up. The contractor may refuse to pick up bags of trash in an amount exceeding that allowed in Section 6-313 above, or recyclables which are improperly prepared, after the contractor has given appropriate notice to the residential user. (Ord. No. 92-44, § 11, 8-31-92)

Sec. 6-316 Removal of Recyclable Materials.

When recyclable materials are placed at curbside, they become the property of the contractor, and no person other than the contractor or the residential user may remove such materials, except as otherwise provided by the Board of Public Works and Safety. Unauthorized removal of such material shall subject the violator to a civil penalty of \$25.00 per incident. (Ord. No. 92-44, § 12, 8-31-92)

Sec. 6-317 Contractor's Legal Rights.

The contractor may bring a civil action against any person, firm or corporation who violates Section 6-316 above. This shall be in addition to any other penalties or remedies. (Ord. No. 92-44, § 13, 8-31-92)

Sec. 6-318 Donations.

Nothing in this Article shall be construed to prevent any person or organization from donating or selling recyclable materials to any person, club, business, civic or charitable organization or any other organization. (Ord. No. 92-44, § 14, 8-31-92)

Sec. 6-319 Breach of Contract.

The contract to be let in accord with this Article may provide for certain penalties to be imposed

upon the contractor for poor service or other breaches of the contract, as determined by the Board of Public Works and Safety. (Ord. No. 92-44, § 15, 8-31-92)

Sec. 6-320. Voluntary Option to Participate in Trash Collection and Curbside Recycling ‘Opt In’.

The Board of Public Works and Safety may develop and implement a program by which potential users who do not meet the strict requirements of the definition of 'residential user' may opt into the trash collection and curbside recycling program. The program should provide for the following:

(a) The users may only dispose of residential waste as provided for by this Article, and must otherwise meet all of the regulations of the program, such as bag limits.

(b) The users must be residents of the City who would not otherwise meet the definition of residential user (not receive a separate sewer bill, have more than eight units in a multi-family dwelling structure within a project, etc.) and must be able to provide adequate access to the contractor for pickup of trash and recyclables.

(c) Rules governing the procedure should provide that users who 'opt in' to the trash collection and curbside recycling program must remain in the program for the term of any contract or contracts let pursuant to this Article as designated by the Board of Public Works and Safety in the 'Opt In' agreement and may not terminate service at any time other than expiration of said contract terms without the prior approval of the Board of Public Works and Safety.

The Board of Public Works and Safety is hereby authorized to enter into a contract allowing for the exercise of this 'opt in' provision. (Ord. No. 97-12, § 7, 4-21-97)

Sec. 6-321 through Sec. 6-328 Reserved for Future Use.

****Pages 474 through 502 Reserved for Future Use.**

**ARTICLE 10. SPECIFIC ACTIVITIES REGULATED
FOR THE PUBLIC'S HEALTH AND SAFETY.**

Sec. 6-329 Barbed Wire and Electric Fences Restricted.

No person shall maintain or construct any fence composed in whole or in part of barbed wire or similar material designed to cause injury to persons, or any wire charged with electric current, within three (3) feet of any street, sidewalk, alley or other public way or place. (*Code* 1968, § 3.18; 1983 *Greenwood Municipal Code*, § 4-1)

Sec. 6-330 Concealed Weapons Prohibited.²⁵

A person who is not a peace officer or who is not licensed pursuant to *I.C.*, 35-47-2-1 *et seq.*, shall not carry about his person any concealed pistol, knife, razor, slingshot, metal knuckles or any other weapon or thing of deadly character. (*Code* 1968, § 42.08; 1983 *Greenwood Municipal Code*, § 8-2)

Sec. 6-331 Use of Firearms/Shooting of Birds.

(a) No person, except a peace officer, shall fire or discharge any firearm, rifle, spring or air gun within the City, or have any firearm, rifle, spring or air gun in his possession or under his control unless it is unloaded and knocked down or enclosed within a carrying case or other suitable container.

(b) The provisions of subsection (a) above shall not be applicable when any person desires to shoot pigeons or any other obnoxious birds within the City, subject to the following provisions:

(1) That the individual or group shall make an application for a permit with the Board of Public Works and Safety to possess, control and discharge firearms for the purpose of shooting pigeons or other obnoxious birds located within the City on specific property set out in said application, said application to be on a form as prescribed by the Common Council, and said form to include a waiver by the applicant as to any liability on the part of the City for damage done to the said specific property, as well as an assumption by the applicant to hold the City free and harmless from any liability occurring as a result of the shooting of said pigeons or other obnoxious birds;

(2) That upon approval of the application, the signing of the waiver and assumption agreement and the issuance of the permit, the shooting of pigeons or other obnoxious birds shall be done by the applicant or the agents or employees of the applicant under the supervision of the Police Department;

(3) That the guns and shells for the shooting are to be furnished by the applicant and the applicant shall be responsible for cleaning up any dead birds around the said specific property as a result of the shooting of said pigeons or other obnoxious birds. (*Code* 1968, § 42.09; 1983 *Greenwood Municipal Code*, § 8-3)

²⁵

I.C., 35-47-2-1, *et seq.*, addresses "Weapons and Instruments of Violence.

Sec. 6-332 Throwing Stones, Shooting Arrows, or Other Objects Prohibited.

No person shall throw or shoot any object, arrow, stone or other missile or projectile, by hand or by any other means at any person or at, in or into any building, street, sidewalk, alley, park, playground or other public place within the City. (*Code* 1968, § 42.10; 1983 *Greenwood Municipal Code*, § 8-4)

Sec. 6-333 Posting Advertisements on Poles Prohibited.

No person shall place any bill, poster, sign or advertisement upon any telephone, telegraph, or electric utility pole or any public property in the City. (*Code* 1968, § 42.19; 1983 *Greenwood Municipal Code*, § 8-5)

Sec. 6-334 Speed of Trains.²⁶

It shall be unlawful for any railroad company, the lessee thereof, or any conductor, engineer, or other person having charge of the operation of, or operating any railroad train, engine, or any self-propelled vehicle over any railroad track, within the City, to operate said railroad train, engine, or self-propelled vehicle at a rate of speed in excess of thirty-five (35) miles per hour. (*Code* 1968, § 42.22; 1983 *Greenwood Municipal Code*, § 8-6)

Sec. 6-335 Abandoned Iceboxes.

No person shall leave or permit to remain outside of any dwelling or other building, or within any unoccupied or abandoned dwelling or other structure under his control, or in any place accessible to children, any abandoned, unattended or discarded icebox, refrigerator or other container which has an airtight door or lid which cannot be opened easily by pushing from the inside. (*Code* 1968, § 42.23; 1983 *Greenwood Municipal Code*, § 8-7)

Sec. 6-336 Restrictions on Yard and Garage Sales.

(a) All yard sales, patio sales, and garage sales of more than three (3) days within any thirty-day period are prohibited.

(b) The owner or occupant of any real property shall not allow any yard sale, patio sale or garage sale to be held on his property in violation of the provisions of subsection (a). No person shall conduct such a sale so as to violate subsection (a). (*Code* 1968, § 42.36; 1983 *Greenwood Municipal Code*, § 8-8)

²⁶

I.C., 36-9-6-13, permits cities to authorize railroad use upon certain terms and conditions.

Sec. 6-337 Conduct in Private Parking Areas.

(a) A **QUASI-PUBLIC PARKING LOT**, within the meaning of this Section shall be deemed to be any privately-owned property improved to provide parking for vehicles thereon, for the convenience of the general public having social, commercial or institutional contact mutually advantageous to the owner and public alike, and shall include, but not be limited to, parking lots of banks, churches, shopping centers, stores, garages, gas stations, and drive-in restaurants.

(b) It shall be unlawful for any driver of a vehicle while on or adjacent to a quasi-public parking lot to race the motor of any motor vehicle, to suddenly stop or start a vehicle, or to make or cause to be made any loud or unseemly noise. It shall be unlawful for any other person in a vehicle parked on the premises of a drive-in restaurant to blow or cause to be blown the horn of any motor vehicle except to avoid an accident while so parked.

(c) It shall be unlawful for any patron or other person on a quasi-public lot whether in or out of a motor vehicle, to drink, to consume or display any intoxicating beverage of any kind. It shall be unlawful for a group of three (3) or more persons to congregate or linger at any location on a quasi-public parking lot except while engaged in social, institutional, or commercial contact mutually advantageous to the owner and such persons. No person shall drive a motor vehicle onto a quasi-public parking lot and then drive the said motor vehicle from such parking lot or such premises without parking such motor vehicle, unless there is no unoccupied parking space available on said parking lot or premises.

(d) It shall be the duty of any police officer in whose presence a violation of this Section occurs to arrest the violator thereof as if the offense occurred in his presence on a public street. In the event no officer is present at the violation of this Section, it shall be the duty of the owner or the agent of the owner of the quasi-public parking lot in whose presence the offense was committed to swear an affidavit setting out the particulars thereto. (*Code* 1968, § 41.14; 1983 *Greenwood Municipal Code*, § 8-9)

Sec. 6-338 Littering of Streets During Construction Prohibited.

(a) Any contractor, or employee thereof, or the owner, if the owner is working on his own land, shall not cause a foreign substance to be deposited on any public right-of-way or sidewalk within the City beyond the end of the working day. The phrase "the end of the working day" shall mean that time at which construction or other activity on a project shall cease for at least six (6) hours during any twenty-four (24) hour period.

(b) Failure to remove such foreign substance from the surface of the street upon being notified to do so shall constitute a second and separate violation, and the contractor or employee thereof or the owner shall be liable for a second and separate violation and subject to the same penalty. (*Code* 1968, § 3.04; 1983 *Greenwood Municipal Code*, § 7-26)

Sec. 6-339 Obstructions of Streets and Sidewalks Prohibited.

(a) No person shall obstruct or cause to be obstructed any street, alley or sidewalk within the City. This does not prohibit the reasonable and necessary use of parts of the streets or sidewalks, for the purpose of depositing building materials in front of or in the rear of buildings in process of correctional repair.

(b) When any street, alley or sidewalk is obstructed so as to impede or interfere with the free use thereof, the Chief of Police may remove such obstruction to some suitable place.

(c) The cost of the removal of any obstructions may be recovered from the person causing the obstruction if the City gave such person reasonable prior notice to remove the obstruction. (Ord. No. 82-2, §§1, 3, 4, 2-15-82; 1983 *Greenwood Municipal Code*, § 15-2)

Sec. 6-340 Cleaning Sidewalks of Debris and Snow Required.

The occupant, or the owner where there is no occupant, of the property adjoining any public sidewalk shall keep the sidewalk free of debris, snow, ice and any foreign matter. Snow shall be removed within twelve (12) hours after it has ceased falling. Where snow or ice cannot be readily removed, and presents a slippery surface, sand shall be spread on it. (*Code* 1968, § 3.17; 1983 *Greenwood Municipal Code*, § 15-3)

Sec. 6-341 Deposits of Snow by Commercial Enterprises Required to be Removed.

(a) No person engaged in a commercial enterprise within the City shall permit to be deposited in any street or thoroughfare, snow or other obstruction from the sidewalks, parking lots or driveways of said commercial enterprise.

(b) Any person who shall violate this Section shall be fined as provided in Section 1-13 of this Code, and may in addition be assessed the cost of the removal of such snow or other obstruction of natural origin from the street or thoroughfare so obstructed. (Ord. No. 82-2, §§ 5, 6, 2-15-82; 1983 *Greenwood Municipal Code*, § 15-4)

Sec. 6-342 Display of Goods For Sale Restricted.

No person shall use any street, sidewalk or other public place for the display or sale of goods or merchandise, or write or affix any signs or advertisements on any pavement. (*Code* 1968, § 3.15; 1983 *Greenwood Municipal Code*, § 15-5)

Sec. 6-343 Unlawful Removal of Barricades Prohibited.

(a) Any person laying or repairing or making any excavation in any pavement on a street, alley, sidewalk or other public place, shall maintain suitable barricades to prevent injury to any person or vehicle. The barricades shall be protected by amber lights at night.

(b) No person shall disturb or interfere with any barricade or lights lawfully placed in any street, alley, sidewalk or other public place. (*Code* 1968, § 3.07; 1983 *Greenwood Municipal Code*, § 15-6)

Sec. 6-344 Damage to Streets and Public Property Prohibited.

No person shall deface, injure or remove any part of any sidewalk, street or alley pavement, or any street sign, lamppost, gutter, curb, drain, sewer, culvert, tree or any other appurtenance in any street, unless authorized so to do by the Board of Public Works and Safety. (*Code* 1968, § 3.09; 1983 *Greenwood Municipal Code*, § 15-7)

Sec. 6-345 Planting of Trees Restricted and Advertisements Thereon Prohibited.

(a) No person shall plant, remove or trim any tree or bush along any street or in parkways or in other public places, without a permit, except the owner of the dominant real estate, who may do so except where such acts interfere with the public use of said right-of-way. All trees and shrubs so planted shall be placed subject to the direction and approval of the Board of Public Works and Safety.

(b) No person shall attach any sign, advertisement or notice to any tree, pole or shrub in any street or public place. (*Code* 1968, § 3.10; 1983 *Greenwood Municipal Code*, § 15-8)

Sec. 6-346 Trimming of Trees or Shrubs Required.

(a) Any tree or shrub which overhangs any sidewalk, street or other public place in the City so as to impede or interfere with traffic or travel, shall be trimmed by the owner of the abutting premises or of the premises on which the tree or shrub grows, so as to remove the obstruction.

(b) Any tree or limb of a tree which is likely to fall on or across any street, sidewalk or other public place shall be removed by the owner of the premises on which such tree stands.

(c) The Board of Public Works and Safety may trim or remove any tree or shrub which obstructs or endangers traffic or travel on any street, sidewalk or other public place, or any subsurface utility provided for public use. (*Code* 1968, § 3.11; 1983 *Greenwood Municipal Code*, § 15-9)

Sec. 6-347 Obstructing Drains or Gutters Prohibited.

No person shall obstruct any gutter or drain in any street. (*Code* 1968, § 3.16; 1983 *Greenwood Municipal Code*, § 15-12)

Sec. 6-348 Interference with Police Dogs Prohibited.

(a) It shall be unlawful for any person to intentionally, willfully or maliciously torment, tease, kick, beat, strike, injure, disable, or kill any dog or other animal used by or rendering service to the Police Department. It shall be unlawful for any person to intentionally, willfully or maliciously interfere with any such dog or other animal being used by or rendering service to said Department or any members thereof in the performance of any of the functions or duties of the Department.

(b) It shall be unlawful for any person or persons to intentionally, willfully or maliciously attempt to perform or commit any acts prohibited by subsection (a).

(c) Any person violating the provisions of subsection (a) shall, upon conviction thereof, be subject to pay the costs of replacement and the costs of training of any such dog or other animal as shall be killed or disabled, or to pay the costs of treatment and care of any such dog or other animal, if the same shall be injured, and shall, in addition thereto, be fined not less than Ten Dollars (\$10.00), nor more than Three Hundred Dollars (\$300.00), and be required to pay all costs of prosecution.

(d) Any person who shall violate any of the provisions of this Section by the doing of any act other than the killing or injuring of such dog or animal shall be subject to a fine of not more than One Hundred Dollars (\$100.00), plus the costs of prosecution. (Ord. No. 81-2, §§1—4, 3-2-81; 1983 *Greenwood Municipal Code*, § 14-3)

Sec. 6-349 Smoking Regulations.

The following section adopted by the Greenwood Common Council on February 20, 2006, will not take effect until April 21, 2006.

The purpose and intent of this Section is to protect the public health and welfare by prohibiting smoking in public places and places of employment, to guarantee the right of nonsmokers to breathe smoke-free air, and to recognize that the need to breathe smoke-free air shall have priority over the desire to smoke.

(a) Definitions.

The following words and phrases, whenever used in this Article, shall be construed as defined in this Section:

(1) “Attached Bar” means the bar area of a restaurant.

(2) “Bar” means an establishment that serves alcoholic beverages for consumption on the premises, by guests who must be at least twenty-one (21) years of age to enter the premises, including but not limited to pubs, taverns, nightclubs, cocktail lounges, and cabarets

(3) “Business” means a sole proprietorship, partnership, joint venture, corporation, or other business entity formed for profit-making purposes, including retail establishments where goods or services are sold as well as professional corporations and other entities where legal, medical, dental, engineering, architectural, or other professional services are delivered.

(4) “Employee” means a person who is employed by an employer in consideration for direct or indirect monetary wages or profit, and a person who volunteers his or her services for a non-profit entity.

(5) “Employer” means a person, business, partnership, association, corporation, including a municipal corporation, trust or non-profit entity that employs the services of one or more individual persons.

(6) “Enclosed Area” means all space between a floor and ceiling that is enclosed on all sides by solid walls or windows (exclusive of doorways) which extend from the floor to the ceiling.

(7) “Health Care Facility” means an office or institution providing care or treatment of diseases, whether physical, mental, or emotional, or other medical, physiological, or psychological conditions, including but not limited to, hospitals, rehabilitation hospitals or other clinics, including weight control clinics, nursing homes, homes for the aging or chronically ill, laboratories and offices of surgeons, chiropractors, physical therapists, physicians, dentists, and all specialists within these professions. This definition shall include all waiting rooms, hallways, private rooms, semiprivate rooms, and wards within health care facilities.

(8) “Place of Employment” means an area under the control of a public or private employer that employees normally frequent during the course of employment, including, but not limited to, work areas, employee lounges, breakrooms, restrooms, conference rooms, meeting rooms, classrooms, employee cafeterias, hallways, and vehicles owned by the City of Greenwood. A private residence is not a “place of employment” unless it is used as a child care, adult day care, or health care facility.

(9) “Private Club” means a facility:

(a) owned or operated by an association or corporation which shall:

(i) not be operated for pecuniary gain; and

(ii) consist of membership:

(A) formed as a lodge, local chapter, or corresponding unit of a fraternal order whether or not recognized on a national basis; or

(B) comprised of persons who have served in the armed forces of the United States; or

(C) formed as a recognized, exclusive association of persons organized for a joint or common purpose for which application for membership, the payment of dues, and self governance by the membership are distinguishing characteristics; and

(b) where entry into, and use of the facility, is restricted to members and guests of members

(10) “Private Function” means a gathering of persons for the purpose of deliberation, education, instruction, entertainment, amusement, or dining, where membership or specific invitation is a prerequisite to entry and where the event is not intended to be open to the public.

(11) “Public Place” means an enclosed area to which the public is invited or in which the public is permitted, including but not limited to, banks, educational facilities, health care facilities, Laundromats, public transportation facilities, reception areas, restaurants, retail food production and marketing establishments, retail service establishments, retail stores, shopping malls, sport arenas, theaters, and waiting rooms. A private residence is not a “public place” unless it is used as a child care, adult day care, or health care facility.

(12) “Restaurant” means an eating establishment, including but not limited to, coffee shops, cafeterias, sandwich stands, and private and public school cafeterias, which gives or offers for sale food to the public, guests, or employees, as well as kitchens and catering facilities in which food is prepared on the premises for serving elsewhere. The term “restaurant” shall include an attached bar.

(13) “Retail Tobacco Store” means a retail store utilized primarily for the sale of tobacco products and accessories and in which the sale of other products is merely incidental.

(14) “Service Line” means an indoor line in which one (1) or more persons are waiting for or receiving service of any kind, whether or not the service involves the exchange of money.

(15) “Shopping Mall” means an enclosed public walkway or hall area that serves to connect retail or professional establishments.

(16) “Smoking” means inhaling, exhaling, burning, or carrying any lighted cigar, cigarette, pipe, weed, plant, or other combustible substance in any manner or in any form.

(17) “Sports Arena” means sports pavilions, stadiums, gymnasiums, health spas, boxing arenas, swimming pools, roller and ice rinks, bowling alleys, and other similar places where members of the general public assemble to engage in physical exercise, participate in athletic competition, or witness sports or other events.

(b) Application to City-Owned Facilities.

All enclosed facilities owned, leased, or operated by the City of Greenwood shall be subject to the provisions of this Section, including City vehicles, whether or not they are occupied by more than one person.

(c) Prohibition of Smoking in Public Places.

Smoking shall be prohibited in the following enclosed public places and other public places similarly situated within the City of Greenwood, including but not limited to the following places:

- (1) Aquariums, galleries, libraries, and museums.
- (2) Areas available to and customarily used by the general public in businesses and non-profit entities patronized by the public, including but not limited to, professional offices, banks, Laundromats, hotels and motels.
- (3) Bingo facilities when a bingo game is in progress.
- (4) Convention facilities.
- (5) Elevators.
- (6) Facilities primarily used for exhibiting motion picture, stage, drama, lecture, musical recital, or other similar performance, except when smoking is part of a theatrical production.
- (7) Health care facilities.
- (8) Licensed child care and adult day care facilities.
- (9) Lobbies, hallways, and other common areas in apartment building, condominiums, mobile home parks, retirement facilities, nursing homes, and other multiple-unit residential facilities.
- (10) The following outdoor areas:
 - (i) Smoking is limited to 25% of seating in outdoor dining areas of restaurants and bars,
 - (ii) Within courtyards, and other areas where air circulation may be impeded by architectural, landscaping or other barriers.
- (11) Places of employment.
- (12) Private Functions in other public places likes bars, restaurants, hotels, and motels.
- (13) Polling Places.

(14) Public transportation facilities, including buses and taxicabs, under the authority of the City of Greenwood, and ticket, boarding, and waiting areas of public transit depots.

(15) Restaurants, including attached bars.

(16) Restrooms, lobbies, reception areas, hallways, and other Common-use areas.

(17) Rooms, chambers, places of meeting or public assembly, including school buildings under the control of an agency, board, commission, committee or council of the City of Greenwood or a political subdivision of the State when a public meeting is in progress, to the extent the place is subject to the jurisdiction of the City of Greenwood.

(18) Service Lines.

(19) Sports arenas, including enclosed places in outdoor arenas.

(d) Prohibition of Smoking in Places of Employment.

(1) Smoking shall be prohibited in all enclosed places of employment without exception. This includes common work areas, auditoriums, classrooms, conference and meeting rooms, private offices, elevators, hallways, medical facilities, cafeterias, employee lounges, stairs, restrooms, vehicles, and all other enclosed facilities

(2) This prohibition on smoking shall be communicated to all existing employees by the effective date of this Section and to all prospective employees upon their application for employment

(e) Reasonable Distance.

Smoking is prohibited within a reasonable distance of 25 feet outside an enclosed area where smoking is prohibited, so as to insure that tobacco smoke does not enter the area through entrances, windows, ventilation systems, or other means.

(f) Exemptions from Regulation.

Notwithstanding any other provision of this Section to the contrary, the following areas shall be exempt from the provisions of Subsections (c), (d) and (e):

(1) Bars other than attached bars.

(2) Private residences, except when used as a licensed child care, adult day care, or health care facility.

(3) Hotel and motel rooms that are rented to guests and are designated as smoking rooms,; provided, however, that no more than twenty-five percent (25%) of rooms rented to guests in a hotel or motel may be so designated.

(4) Retail tobacco stores; provided that smoke from these places does not infiltrate into areas where smoking is prohibited under the provisions of this Section.

(5) Private Club meeting halls, clubhouses, structural facilities and club property when these places are being used for private functions of the private club and its members; provided that smoke from these places does not infiltrate into areas where smoking is prohibited under the provisions of this Section.

(6) Private and semiprivate rooms in nursing homes and long-term care facilities that are occupied by one (1) or more persons, all of whom are smokers and have requested in writing to be placed in a room where smoking is permitted.

(7) Outdoor areas of places of employment except those covered by the provisions of Subsection (e).

(g) Declaration of Establishment as Nonsmoking.

Notwithstanding any other provision of this Section, an owner, operator, manager, or other person in control of an establishment, facility, or outdoor area may declare that entire establishment, facility, or outdoor area as a nonsmoking place. Smoking shall be prohibited in any place in which a sign conforming to the requirements of Subsection (i)(1) is posted.

(h) Policies Regarding Smoking in Places of Employment.

(1) It shall be the responsibility of employers to provide a smoke-free workplace for all employees, but employers are not required to incur any expense to make structural or other physical modifications.

(2) The smoking policy shall be communicated to all employees.

(3) Each employer having an enclosed place of employment located within the City shall adopt, implement, make known and maintain a written smoking policy, which shall contain the following elements:

(i) Smoking shall be prohibited in all enclosed facilities within a place of employment without exception. This includes common work areas, auditoriums, classrooms, conference and meeting rooms, private offices, elevators, hallways, medical facilities, cafeterias, employee lounges, stairs, restrooms, and all other enclosed facilities. Smoking shall be prohibited in all vehicles owned by the City of Greenwood.

(ii) All employers shall supply a written copy of the smoking policy upon request to any existing or prospective employee.

(i) Posting of Signs.

(1) “No Smoking” signs or the international “No Smoking” symbol (consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it) shall be clearly and conspicuously posted in every public place and place of employment where smoking is prohibited by this Section, by the owner, operator, manager, or other person in control of that place.

(2) Every public place and place of employment where smoking is prohibited by this Section shall have posted at every entrance a conspicuous sign clearly stating that smoking is prohibited.

(3) All ashtrays and other smoking paraphernalia shall be removed from any area where smoking is prohibited by this Section by the owner, operator, manager, or other person having control of the area.

(4) Any public place or place of employment exempted from this chapter shall clearly and conspicuously post the following sign at every entrance: “Warning: Tobacco Smoke May Be Present”.

(j) Retaliation Prohibited.

No person or employer shall discharge, refuse to hire, or in any manner retaliate against an employee, applicant for employment, patron or customer because that employee, applicant, patron or customer exercises any rights afforded by this Section or reports or attempts to prosecute a violation of this Section.

(k) Enforcement.

(1) The City shall seek to gain voluntary compliance with this chapter by means of publicity and education programs, and the issuance of warnings, where appropriate.

(2) The Greenwood City Court shall be the court of proper venue and jurisdiction for the enforcement of this Section.

(3) Warnings and Citations for violation of this Section shall be issued by any sworn member of the Greenwood Police Department, sworn members of the Greenwood Fire Department as designated by the Greenwood Fire Chief, Greenwood Code Enforcement personnel, and additionally, in or on Greenwood Community Schools Property, Clark-Pleasant Community Schools property, or Center Grove Community School Corporation property, by any special police officer appointed under I.C. 36-8-3-7 to serve the Greenwood Community School, Clark-Pleasant Community School, or Center Grove Community School Corporations.

(4) Any citizen who desires to register a complaint under this Section may initiate enforcement with the Greenwood Police Department.

(5) Upon determining that any provision of this Section has been violated, the enforcement officer may issue a warning or may issue a Citation to the person(s) responsible for the violation. The Citation shall be in writing and shall be served upon the person(s) responsible for the violation by any of the following methods: delivery in person, certified mail, or first class mail. The Citation shall state:

- (i) The location of the violation;
- (ii) The nature of the violation;
- (iii) The fine assessed for the violation;
- (iv) The location where the fine may be paid (either the Clerk-Treasurer's Office for fines under the jurisdiction of the Ordinance Violations Bureau or the Greenwood City Court for fines under the jurisdiction of the Greenwood City Court);
- (v) That the fine may be contested in the Greenwood City Court.

(l) Violations and Penalties.

(1) It shall be unlawful for any person who owns, manages, operates or otherwise controls the use of any premises subject to regulation under this chapter to fail to comply with any of its provisions.

(2) It shall be unlawful for any person who owns, manages, operates or otherwise controls the use of any premises subject to regulation under this chapter to knowingly or willfully allow smoking to occur where prohibited by this Section. It is a defense to this Section, if the foregoing persons or their employees act in a reasonable and timely manner to personally inform the violator of the prohibition and request that he or she refrain from smoking.

(3) It shall be unlawful for any person to smoke in any area where smoking is prohibited by the provisions of this Section.

(4) A person who:

- (i) smokes in an area where smoking is prohibited by the provisions of this Section shall be guilty of an infraction, punishable by a fine of Fifty Dollars (\$50);
- (ii) owns, manages, operates, or otherwise controls a public place of employment and who fails to comply with the provisions of this Section shall be guilty of an infraction punishable by:

(A) A fine of Fifty Dollars (\$50) for the first violation;

(B) A fine of One Hundred Dollars (\$100) for the second violation at the same place;

(C) A fine of Two Hundred Fifty Dollars (\$250) for the third violation at the same place.

(5) Each day on which a violation of this Section occurs shall be considered a separate and distinct violation.

(6) Penalties of \$50 and \$100 shall be processed through the Ordinance Violations Bureau; penalties exceeding \$100 shall be processed through the Greenwood City Court, in accordance with I.C. 33-36-2-3.

(7) If, after multiple violations by the same person or at the same business, the Greenwood City Attorney and the Greenwood Police Department have reasons to believe that the imposition of fines will not be effective in enforcing this chapter, the City Legal Department shall be empowered to seek any other remedies provided by law.

(m) Public Education.

The City of Greenwood may engage in a continuing program to explain and clarify the purposes and requirements of this Section to citizens affected by it, and to guide owners, operators, and managers in their compliance with it. The program may include publication of a brochure for affected businesses and individuals explaining the provisions of this ordinance.

(n) Governmental Agency Cooperation.

The Mayor, on behalf of the Board of Public Works and Safety, may annually request other governmental and educational agencies having facilities within the City of Greenwood to establish local operating procedures in cooperation and compliance with this Section. This includes urging all Federal, State, County, and School District agencies to update their existing smoking control regulations to be consistent with the current health findings regarding secondhand smoke.

(o) Other Applicable Laws.

This Section shall not be interpreted or construed to permit smoking where it is otherwise restricted by other applicable laws.

(p) Severability.

If any subsection, sentence or provision of this Section, or the application thereof to any person or circumstances shall be declared invalid, such invalidity shall not affect any of the other sections, sentences, provisions, or applications of this Section which can be given effect without the invalid provision or application, and to this end the provisions of this Section are declared to be severable.

Sec. 6-350 through Sec. 6-364 Reserved for Future Use.

ARTICLE 11. POLICE MATTERS.

Sec. 6-365 Requirements of the Chief of Police.²⁷

Applicants for appointment to the position of Chief of Police shall meet the requirements of *I.C.*, 36-8-4-6.5, as amended, and Sec. 6-381(b), as amended.

Sec. 6-366 Duties of Chief of Police.²⁸

(a) The Chief of Police shall enforce all state laws and the ordinances of the City and at all times maintain order and quiet within the City.

(b) He shall also, in conjunction with the County Board of Health, look after the sanitary condition of the City and shall examine buildings and other places believed to be in a dangerous and unsanitary condition.

(c) He shall pay all monies collected for the City by him to the Clerk-Treasurer within a reasonable time after the collection of the same.

(d) He shall maintain order at the meetings of the Council and in so doing shall obey the orders of the Mayor or presiding officer. He shall also perform such other duties as are imposed upon him by law and ordinance.

(e) The Chief of Police shall faithfully discharge all of the duties of constable as provided by law, serving all writs, subpoenas, summonses, and warrants which may be placed in his hands coming from any court or officer of competent authority. He shall act as conservator of the peace in the City, promptly quelling all disturbances and arresting all disturbers.

(f) He shall carry into execution the orders of the Common Council and it shall be part of his duty to be present at every meeting of the Common Council.

(g) He shall also enforce all penal ordinances by promptly arresting the violators thereof and bringing them before a magistrate for trial. (1983 *Greenwood Municipal Code*, § 14-1)

Sec. 6-367 through 6-374 Reserved for Future Use.

²⁷ *I.C.*, 36-8-4-7, sets forth age and other requirements of appointed members of the Police Department.

²⁸ *I.C.*, 36-8-3-3, (g) authorizes the Police Chief to have exclusive control of the Police Department, subject to the rules of the Board of Public Works and Safety. *I.C.*, 36-8-3-10, sets forth the powers and duties of the Police Department, and the Police Chief in particular.

ARTICLE. 12. MERIT SYSTEM FOR THE POLICE DEPARTMENT.²⁹

Sec. 6-375 Definitions.

ADA means the Americans With Disabilities Act, 42 USC 1201 et seq. and all applicable regulations and amendments.

CHIEF means the Chief of Police of the Greenwood Police Department as appointed by the Mayor, or his designee, unless the context clearly indicates otherwise.

COMMISSION refers to the Police Merit Commission created by this article.

COMMISSIONER refers to a person serving on the Commission.

LOCAL PENSION BOARD is the Greenwood Police Pension Board established pursuant to I.C. 36-8-1-7, I.C. 36-8-6-2 or I.C. 36-8-8.

PERF is the Public Employees Retirement Fund established pursuant to I.C. 5-10.3-2.

POLICE OFFICER refers to a sworn officer, who is a member of the police pension fund, and is synonymous with the definition in I.C. 36-8-1-9. (Ord. 93-3, § 1, 6-21-93)

Sec. 6-376 Merit Commission - Membership.³⁰

(a) A Merit Commission is hereby established and shall consist of five (5) Commissioners as follows:

(1) One person appointed by the Mayor.

(2) Two (2) persons, who must be of different political parties, elected by the Common Council.

(3) Two (2) persons, who must be of different political parties, elected by the active police officers of the Police Department.

(4) For purposes of subsections (2) and (3), political affiliation shall be determined in accordance with I.C. 36-1-8-10.

(b) Each Commissioner must be at least twenty-one (21) years of age, a resident of the City for a period of two (2) consecutive years immediately prior to his election and must be a person of good moral character, and must continue to have these qualifications throughout his term. A Commissioner shall not be an active employee, an active reserve officer, an active auxiliary, a former employee, a former reserve officer, a former auxiliary or a retiree of the Greenwood Police Department.

²⁹ I.C., 36-1-4-14 authorizes the establishment of a merit system. I.C., 36-8-3-8 (b), addresses merit systems established by the Board of Public Works and Safety.

³⁰ I.C., 36-8-3.5-6, addresses the establishment and membership of the Merit Commission and the members' qualifications, appointment, and oaths.

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Also a Commissioner shall not be an active employee, an active reserve officer, an active auxiliary, a former reserve officer or a former auxiliary of a law enforcement department or agency, and only one (1) Commissioner at any given time may be a former police officer of a law enforcement department or agency other than Greenwood's. In addition, no person may serve on the Commission who receives any remuneration from the City, except for serving on the Commission.

(c) Each Commissioner shall take an oath of office to conscientiously discharge his duties, and a signed copy of the oath shall be filed with the Clerk-Treasurer. (Ord. No. 93-3, § 1, 6-21-93)

Sec. 6-377 Merit Commission - Membership Selection Process.

(a) The Chief shall post notice in prominent locations throughout the police station, which locations are at least the following: the bulletin boards in investigation and roll call. The notice shall also be read during each shift roll call. The notice shall designate the time, place and purpose of the meeting, which will be to nominate candidates for the Commission. The notice shall be posted at least twenty-one (21) days before the meeting. Only active police officers may attend, and at the meeting one of them shall be selected as chairman. Nominations shall be from the floor. The chairman shall appoint three (3) police officers to serve on an investigation committee to check into the background of the Police Department nominees to ensure that they meet the qualifications of Sec. 6-376. Also, a date for election will be decided at this meeting which shall be within thirty (30) days, but not before twenty-one (21) days. The investigation committee will complete the background check and check voter's registration records. The investigation committee shall file a written report on such investigation with the Chief at least five (5) days in advance of the election. The investigation committee shall post the written report at the prominent locations listed above. The Chief shall post notice of the election the same as set out above. The police officers shall vote by secret written ballot. Other procedures and rules regarding the election may be determined by the Board of Public Works and Safety and posted in the prominent locations listed above.

(b) The Chief shall investigate the background of a Mayoral nominee, and the president of the Common Council, or his designee, shall investigate the background of a Common Council nominee for appointment prior to his appointment to ensure that the nominee meets the qualifications of Sec. 6-376, and shall file a written report with the Clerk-Treasurer within ten (10) days of nomination. (Ord. No. 93-3, § 1, 6-21-93)

Sec. 6-378 Merit Commission - Term of Office; Filling Vacancies; Removal.³¹

(a) The term of a Commissioner is four (4) years.

(b) A vacancy on the Commission shall be filled within a reasonable time by the appointing or electing authority in accord with Sec. 6-376 or 6-377 of this Chapter. The selection is for the remainder of the unexpired term. A Commissioner may serve until his successor qualifies for office. The replacement shall be of the same political affiliation as the Commissioner who is being replaced, for political appointees.

(c) Before the term of a Commissioner expires, or as soon thereafter as practicable, the appointing or electing authority will select a Commissioner by the method set forth in this Article.

³¹ I.C., 36-8-3.5-7, addresses terms and tenure of Commission members.

(d) A Commissioner may be removed for misconduct, including an arrest for any felony, or for a misdemeanor which reflects adversely on the Commissioner's moral character, or for nonperformance of duties, including failure to attend at least seventy percent (70%) of regular or special meetings within any twelve-month period, by a majority vote of the authority that selected him for appointment. The Commissioner shall be given written notice at least ten (10) days in advance of the specific charges to be considered at a public meeting, and shall be allowed to present evidence and argument in his defense prior to a vote for removal. In the case of a vote to remove a Commissioner elected by the Police Department, the notice of the meeting at which the removal vote will be taken must be in accordance with Sec. 6-377.

(e) A Commissioner shall disqualify himself from voting on or taking part in, except as a witness, any matter in which he has a personal or pecuniary interest. "Personal interest" shall mean any interest in the matter which may reasonably be expected to affect the action of the Commissioner, such as, but not limited to, arising from blood or marital relationships, or close business, political or social associations, regardless of whether any financial interest is involved. (Ord. No. 93-3, § 1, 6-21-93)

Sec. 6-379 Merit Commission - Rules, Budget, Legal Assistance.³²

(a) The Commission shall adopt rules and procedures to govern the Commission, including the time and place of regular monthly meetings and special meetings that are necessary to transact the business of the Commission. Three (3) Commissioners constitute a quorum, and a majority vote of all Commissioners is necessary to transact the business of the Commission. Each year, at the time provided in the Commission's rules and procedures, the Commissioners shall select from among their number a president, vice-president and secretary. The Commission shall keep a permanent record of all of its proceedings. The Mayor shall make space available for meetings at the City Building or other appropriate location.

(b) The Commission shall submit a proposed annual budget to the City as other budgets of the City are submitted.

(c) The Commission may employ an attorney for legal assistance subject to the laws of the State of Indiana; provided, however, that said attorney shall not be a member of the same firm as the City attorney. (Ord. No. 93-3, § 1, 6-21-93)

Sec. 6-380 Rules and Procedures of the Commission Governing the Police Department.³³

(a) The Chief shall provide the Commission with a general description of duties and responsibilities for each rank position in the departmental organization structure. The Chief may, at any time, submit revisions to the aforesaid descriptions.

(b) The Commission shall adopt rules and procedures for the Police Department governing:

(1) The selection and appointment of persons to be employed as police officers, subject to applicable pension status;

³² I.C., 36-8-3.5-9, addresses rules, budget, and the transaction of business of the Merit Commission.

³³ I.C., 36-8-3.5-10, addresses the adoption of rules by the Commission.

- (2) Promotions and demotions of police officers;
- (3) Disciplinary action or dismissal of police officers.

(c) Before the rules and procedures are adopted by the Commission, the Commission shall hold a public hearing to consider the adoption of the proposed rules and procedures. At least ten (10) days before the public hearing, the Commission shall publish notice of the hearing in accordance with I.C. 5-3-1. The notice shall state the time and place of the hearing and give a brief description of the subject matter of the proposed rules and procedures.

(d) At least ten (10) days before the hearing, one copy of the proposed rules and procedures shall be placed on file in the office of the Clerk-Treasurer for public inspection.

(e) At least ten (10) days before the hearing, the Chief shall post a copy of the proposed rules and procedures in the prominent locations throughout the Police Station listed above for inspection at all times by the police officers.

(f) At the hearing any interested person shall be afforded the opportunity to present oral and/or written evidence to be considered by the Commission in making its final decision concerning the adoption of the proposed rules and procedures. (Ord. No. 93-3, § 1, 6-21-93)

Sec. 6-381 Appointment and Removal of Police Department Members.

(a) The Commission shall appoint and may remove member of the Police Department, except for the chief, the assistant chief, and the deputy chief of police. The Mayor of the City shall have the right to appoint these three (3) positions, who serve at the pleasure of the Mayor. Upon the expiration of the term or removal from office of any chief, assistant chief, or deputy chief of police, such person shall be appointed by the Commission to the rank in the Police Department which he held at the time of appointment to the position of chief, assistant chief, or deputy chief of police. In the event the chief, assistant chief, or deputy chief of police has qualified in accordance with the promotional procedure as prescribed by the Commission in its rules and procedures for any rank which is higher than the rank held at the time of his appointment, then he shall, upon expiration of his term or removal as chief, assistant chief, or deputy chief of police, be appointed by the Commission to the rank for which he has qualified under the promotional procedures established. (Ord. No. 99-10, § 2, 4-5-99)

(b) A person appointed to the position of chief, assistant chief, or deputy chief of police must have at least five (5) years of continuous service with the department immediately before his appointment; however, this requirement may be waived by majority vote of the Common Council on the request of the City executive, although the person must still have at least five (5) years of service on a full-time paid police department or agency. (Ord. No. 99-10, § 2, 4-5-99)

(c) The rules and procedures shall provide that all promotions to any rank be from the next immediate lower rank and that person shall have qualified in time of service required by this section. The promoted ranks in the department shall be captain, lieutenant, and sergeant.

(d) A police officer must have satisfactorily served at least one (1) year in rank by January 1 of an even numbered year before being eligible for promotion to the next higher rank. The Chief shall certify on or before September 1 of odd numbered years all police officers that may sit for the next promotional test and interviews. A police officer must have been on the Police Department of the City for a

minimum of three (3) years before he is eligible for the rank of sergeant. A sergeant must have been a police officer on the department for a period of not less than four (4) years before he is eligible for the rank of lieutenant. A lieutenant must have been a police officer on the Department for a period of not less than five (5) years before he is eligible for the rank of captain.

(e) No police officer may take a promotional test or participate in the promotional process for the practice. (Ord. No. 93-3, § 1, 6-21-93)

Sec. 6-382 Persons Eligible for Appointment.³⁴

(a) To be appointed to the Police Department, an applicant must be:

(1) A citizen of the United States.

(2) A high school graduate or equivalent.

(3) At least twenty-one (21) years of age but not yet thirty-six (36) years of age, and must meet all other requirements as established by the Commission.

(b) A person may not be appointed, reappointed or reinstated if said person has ever been convicted of a felony.

(c) Applications for appointment or reappointment to the Police Department must be filed with the Commission. The applicant must produce satisfactory proof that he or she meets the requirements listed in subsection (a) of this section.

(d) Prior to soliciting or accepting applications for appointment to the Police Department, the Commission shall adopt standards for appointment as follows:

(1) General Aptitude Test.

The General Aptitude Test shall:

(A) reflect the essential functions of the job;

(B) be conducted according to procedures adopted by the Commission; and

(C) be administered in a manner that reasonably accommodates the needs of disabled applicants.

The standards set according to this subsection must be presented to the Law Enforcement Training Board for review, pursuant to IC 36-8-3.2-3.5.

³⁴ I.C., 36-8-3.5-12, addresses qualifications, examinations and appointment procedures for the Police Department.

(2) Physical Agility Test.

The Physical Agility Test shall:

- (A) not discriminate on the basis of sex;
- (B) reflect the essential functions of the job; and
- (C) at a minimum, test the following:
 - (i) muscular strength;
 - (ii) muscular endurance;
 - (iii) cardiovascular endurance; and
 - (iv) musculoskeletal flexibility.

The standards set according to this subsection must be presented to the Law Enforcement Training Board for review, pursuant to I.C. 36-8-3.2-3.5.

(3) Mental Exam.

The standards set for the baseline statewide mental exam shall:

- (A) reflect the essential functions of the job;
- (B) be consistent with business necessity; and
- (C) be reviewed by the 1977 Fund Advisory Board.

The Mental Exam may be administered by a community mental health center, a hospital, a licensed physician or psychologist, as designated by the Local Pension Board; however, the results of the exam shall be interpreted only by a licensed physician or licensed psychologist in accordance with I.C. 36-8-8-19(c).

(4) Other Selection Criteria.

Applicants may also be rated on other selection criteria which may include mental alertness, character, habits and reputation, pursuant to testing methods adopted by the Commission. The Commission shall adopt rules for grading the applicants, including the establishment of a passing score. The Commission shall determine the appropriate weight to be given to the general aptitude test, to the extent it exceeds a passing score, and to the other selection criteria in determining the scores.

(e) Applicants for appointment or reappointment to the Police Department must pass the general aptitude test described in subsection (d)(1) above, which shall be conducted according to procedures adopted by the Commission. The examination results shall be filed with the Commission.

(f) If the Commission finds that an applicant lacks the proper qualifications, it shall reject the applicant. Applicants not rejected shall then be rated on the other selection criteria according to methods adopted by the Commission, as described in subsection (d)(4). The Commission shall place the names of applicants with passing scores on an eligibility list in order of their scores and shall certify the

list to the Clerk-Treasurer.

(g) (1) When a vacancy occurs in the Police Department, the Commission, upon a written request by the Chief, shall administer the Physical Agility Test to the applicant having the highest score on the Eligibility List.

(2) Prior to administering the Physical Agility Test, the Commission shall require the applicant to provide an authorization form, to be signed by the applicant's physician, regarding the applicant's ability to participate in the physical agility test. Such authorization shall:

(A) list the elements of the Physical Agility Test;

(B) require the physician to certify only that the applicant may safely participate in the test; and

(C) not inquire as to the applicant's health or physical condition.

(3) The Commission shall certify the results of the Agility and General Aptitude Tests to the Local Pension Board prior to extending a conditional offer of employment.

(4) The Commission shall develop and maintain a list of area physicians willing to examine applicants who do not have a family physician, and shall make that list available to applicants upon request. The maintaining of such a list is in no way an endorsement of such physicians. The applicant shall bear the entire costs of any examination required by the physician.

(h) If the applicant passes the Physical Agility Test, and is still of good moral character, the Commission shall extend a conditional offer of employment.

(i) If a conditional offer of employment is accepted, the baseline statewide physical exam and baseline statewide mental exam, as prescribed by PERF, shall be administered to the applicant by the physicians named by the Local Pension Board. The applicant shall also execute a release regarding physical and mental status and history. The medical exam may include a drug and alcohol screen. At least one-half the cost of these exams shall be paid for by the Commission.

(j) The Local Pension Board shall determine if the applicant has passed the baseline statewide physical exam and the baseline statewide mental exam. If the applicant passed both such exams, the Local Pension Board shall send copies and certification of the results of the baseline statewide physical examination as well as certification of the results of the Physical Agility and baseline statewide mental examination to the PERF Board, pursuant to I.C. 36-8-8-19. If the applicant fails to pass either or both the baseline statewide physical exam and the baseline statewide mental exam, he has failed to meet the conditions of the conditional offer of employment.

(k) To the extent required by the ADA, all records containing medical information about either an applicant or employee shall be kept confidential, and shall be maintained by the Clerk-Treasurer in separate files which shall be kept in a secure location. Such information shall be made available for review only by:

(1) the applicant or employee;

- (2) the Chief;
- (3) the Commission in performance of its official functions;
- (4) the Local Pension Board in performance of its official functions;
- (5) PERF in performance of its official functions; and
- (6) other persons or entities, pursuant to state and federal law.

Supervisors or safety personnel may be given medical information as is necessary to provide workplace accommodations or possible emergency first aid.

The Clerk-Treasurer shall maintain a permanent log or other record which shall be signed and dated by each person who reviews medical information in any file.

(l) All announcements regarding applications and testing will state that the City of Greenwood Police Department is an equal opportunity employer and that upon reasonable notice by the applicant, accommodations regarding testing and the application process will be made. The Commission shall consider and develop alternative methods for giving tests and accepting applications as may be required under the ADA, such as, but not limited to, employing readers, giving tests orally, and testing at accessible locations.

(m) All appointments are probationary for a period of one (1) year. If the Commission finds, upon the recommendation of the department during the probationary period, that the conduct or capacity of a probationary member is not satisfactory, the Commission shall notify him in writing that he is being reprimanded, that he is being suspended, or that he will not receive a permanent appointment. If a member is notified that he will not receive a permanent appointment, his employment immediately ceases. Otherwise, at the expiration of the probationary period the member is considered regularly employed. (Ord. No. 93-3, § 1, 6-21-93)

Sec. 6-383 Promotions in Rank.³⁵

(a) Rules governing promotions in rank from the next lower rank shall be:

(1) The score received by the police officer on a written competitive examination shall be considered in rating as forty-five percent (45%) of the overall rating.

(2) The score received by a police officer on an oral competitive interview conducted by the Commission shall be considered as fifteen percent (15%) of the overall rating. When considering the percentage of an oral interview, the Commission shall devise the method of computing this percentage and the manner in which it is awarded. If any police officer receives four percent (4%) or less, the Commission members must explain in writing the reasons for the score. Such shall be placed in the officer's file.

³⁵ *I.C.*, 36-8-3.5-13, addresses promotions, and *I.C.*, 36-8-3.5-14, addresses competitive examinations.

(3) The score received by a police officer on a competitive interview conducted by police professionals shall be considered as fifteen percent (15%) of the overall rating. The police professionals conducting this interview shall be individuals of a command level from law enforcement agencies in the central Indiana area as chosen by the Commission. When considering the percentage of said interview, the Commission shall devise the method of computing this percentage and the manner in which it is awarded. If any police officer receives four percent (4%) or less, the interview members must explain in writing the reasons for the score. Such shall be placed in the officer's file.

(4) The performance record of the police officer shall be considered as fifteen percent (15%) of the overall rating. This will include all past performance ratings subsequent to the establishment of the previous eligibility list. All police officers shall receive an equal past performance rating during the establishment of the first eligibility list only, or when the Commission determines that equity and fairness demands it because of a change in the past performance rating system adopted by the Board of Public Works and Safety. New past performance rating systems cannot be adopted more frequently than once every two (2) years.

(5) A police officer's length of continuous service shall be considered at one-half percent (1/2%) per year of service up to a maximum of ten percent (10%) of the rating. The appropriate fraction of one-half percent (1/2%) will be used for less than any full anniversary year in computing seniority rights. Seniority rights scores will be fixed at the date of the written examination and remain fixed on the promotion list until such time as examinations are administered and a new promotion list is posted. For purposes of this section, continuous service means service which is uninterrupted by periods during which the officer is not considered as being a full-time police officer of the Police Department. The Commission will determine the procedures for determining the fractional year of service. The score for service (seniority) will be determined as of the date of the written examination.

(6) For purposes of paragraph (a)(2) and (3) above, the Commission shall determine the questions and the manner in which the interview shall be conducted.

(b) The Commission shall set a date in November of each odd numbered year to give a competitive written examination for each rank and all eligible police officers shall be notified of written materials from which they can study. The Commission may employ instructors, purchase materials and make other expenditures to provide information for applicants for promotion examinations. The Commission shall also select and designate an appropriate person and/or agency or service outside the Police Department to prepare, administer and grade all written examinations conducted hereunder.

(c) The identity of the police officer taking the written examination shall be withheld from the person or persons grading the examination, and all written examinations are confidential. Any oral interview administered pursuant to paragraphs (a)(2) or (3) shall be given and scored prior to the scores on any written exam being disclosed to the Commission.

(d) The examination papers shall not be placed under the control of the Commission nor shall members of the Commission see the examinations until after the tests have been taken, and all oral interviews are completed and scored.

(e) All written examination papers and scores and oral interview scores shall be made part of the permanent file of the officer taking the examination and shall be maintained under the supervision

of the Chief. The Commission shall notify each police officer in writing of the scores received on the oral interview and written examination. If any police officer is aggrieved by the score received on a written examination or oral interview, he shall have the right to appeal to the Commission for a review of that score within ten (10) calendar days after notice of the score has been sent. The Commission, after reviewing the score and examination, shall have the authority to affirm or correct the score based upon written findings of its review. If a police officer's score is changed because of erroneous scoring of the written examination, written examinations of all other police officers which were also erroneously scored shall be changed by the Commission, regardless of whether those police officers appealed their scores or not. (Ord. No. 93-3, § 1, 6-21-93)

Sec. 6-384 Performance Ratings System.³⁶

(a) The Board of Public Works and Safety shall adopt a performance rating system for the Police Department which shall be implemented by the Police Department. A performance rating under said system shall be made once every six (6) months for each police officer, including probationary officers, except as provided for in Sec. 6-383 (a)(3). The rating shall be accomplished as provided for in the performance rating system adopted by the Board of Public Works and Safety, except that the Chief and Assistant Chief of police shall have the performance rating system administered to them by the Board of Public Works and Safety or its designee. Each police officer must sign and receive a copy of each performance rating.

(b) Any police officer who is aggrieved by the performance rating given may appeal to the Commission for a review of the rating. The appeal must be in writing and filed with the Commission within ten (10) days after notice of rating has been given to the police officer. The Commission shall hold a hearing and may either affirm or change said rating upon written findings.

(c) All ratings shall become part of the police officer's personnel record, and each police officer must sign and receive a copy of each rating.

(d) No ratings scores shall be disclosed to the Commission until after the scoring for the oral interviews has been completed. (Ord. No. 93-3, § 1, 6-21-93)

Sec. 6-385 Probationary Promotions.³⁷

(a) Subject to the provisions of subsection (d) below, when a vacancy in rank occurs, the Chief may in writing request the Commission to fill a particular rank. The Commission shall fill said rank from the eligibility list with the applicant with the highest overall score, within forty-five (45) days of the Chief's request.

(b) The eligibility list heretofore created shall be maintained for a period of two (2) years, or until exhausted, at which time there shall be another eligibility list established for every rank as previously prescribed. If, after an eligibility list is established, any disciplinary action other than an oral reprimand is taken against an officer on the eligibility list, then the Commission shall review the past performance and other factors as provided in Sec. 6-383 in determining eligibility for promotion, and the

³⁶ I.C., 36-8-3.5-15, addresses performance ratings.

³⁷ I.C., 36-8-3.5-16, addresses probationary promotions of one (1) year.

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Commission may adjust or remove said officer's position on said eligibility list as a result of said review.

(c) All promotions are probationary for a period of one year. At the end of this period, a probationary police officer's performance shall be reviewed by his immediate superior and the Chief who shall recommend to the Commission one of the following:

- (1) The promotion be made permanent.
- (2) The promotion be revoked.

The Commission shall review the recommendation and decide what action should be taken. The probationary police officer is entitled to appear before the Commission and be heard on any matter detrimental to the police officer in the supervisor's report. If the promotion is revoked, the police officer shall be returned to the rank last held before the promotion. If such rank is not open, the police officer is entitled to the pay of the rank in any subordinate capacity until such rank is open.

(d) A police officer whose probationary promotional rank is revoked will be removed from any eligibility list for promotion and will be ineligible to test for promotion for two (2) years. (Ord. No. 93-3, § 1, 6-21-93)

Sec. 6-386 Disciplinary Actions.³⁸

(a) **Disciplinary action by the Chief.** The Chief may reprimand or suspend an officer without pay for five (5) days or less for any of the following reasons:

- (1) neglect of duty;
- (2) neglect or disobedience of an order or orders;
- (3) violation of departmental rules and regulations as established by the Board of Public Works and Safety;
- (4) incapacity;
- (5) absence without leave;
- (6) immoral conduct;
- (7) conduct injurious to the public peace or welfare;
- (8) conduct unbecoming of an officer;
- (9) unjust persecution of a subordinate police officer;

³⁸ I.C., 36-8-3.5-17, through I.C., 36-8-3.5-19, address disciplinary actions, hearings, court appeals, reprimands, and suspensions.

(10) furnishing information, other than public information, to an applicant for an appointment or promotion that may give that person an advantage over another applicant; and

(11) other breaches of discipline.

(b) **Notice of discipline.** The Chief shall file with the Commission within seventy-two (72) hours after imposing discipline, a report of any disciplinary action taken involving a written reprimand or a suspension without pay, describing the offense committed, and any other facts relevant to the decision of which the Commission should be advised. Copies of said report shall be provided to the officer disciplined and shall be placed in the officer's personnel file. The Chief may, in addition, file disciplinary charges with the Commission.

(c) **Statement of discipline.** Whenever discipline consisting of a written reprimand or suspension without pay of five (5) days or less is imposed by the Chief, he shall provide a written statement of discipline to the officer stating the following:

- (1) offense committed;
- (2) a description of the investigation conducted;
- (3) the reasons for the discipline; and
- (4) the facts supporting the decision.

(d) **Review of procedure.** Any officer subjected to a written reprimand or suspension without pay for less than three (3) days may request the Commission to review the discipline imposed by filing with the Commission and the Chief, within five (5) calendar days of receipt of the written statement of discipline, a written request for review, which shall state why the police officer believes the specific procedures employed to investigate the offense and impose the discipline were unfair. At its meeting next following the filing of a written request for review pursuant to this section, the Commission shall review the officer's statement as contained in his request and the written statement of discipline provided by the Chief, and if the procedures used by the Chief were fair, and the penalty imposed is not unreasonable on its face, the Commission shall affirm the Chief's decision. If the Commission determines that the procedure used was unfair, or that the penalty was manifestly unreasonable, it shall remand to the Chief for corrective action. No further review shall be had, except upon the Commission's own motion pursuant to subsection (h).

(e) **Request for review.** Any officer subjected to a suspension without pay for a period of three (3) to five (5) days may request the Commission to review the discipline imposed, by filing with the Commission and the Chief, within ten (10) calendar days of receipt of the written statement of discipline, a notice of request for review. Within twenty (20) days thereafter, the officer shall submit a written statement which sets forth specific facts tending to negate the charges made, facts found or penalty imposed, and any documents or other evidence in support thereof. The officer's statement will be under oath, or verified.

(f) **Commission's review upon request.** The Commission shall review the decision of the Chief based upon the written statement of discipline and any supporting documents not heretofore presented which are submitted by the Chief, and the verified statement or affidavit of the officer, along with any

supporting documents submitted. The Commission may, in its discretion, hold a hearing upon any issue regarding the discipline imposed, including the penalty, and may accept evidence on any matter; however, the Commission may not accept evidence which could have been provided to the Chief in his initial investigation, but was not, except for good cause shown.

(g) **Standard for review.** If, after review or hearing pursuant to subsection (f), above, the Commission decides that the discipline imposed by the Chief is not supported by the evidence, is arbitrary and capricious or an abuse of discretion, the decision may be modified or set aside, provided, however, that the Commission may not discharge, demote or suspend a police officer for more than five (5) days unless the Commission has held a hearing pursuant to subsection (l). The Commission's decision must be supported by a preponderance of the evidence and by written findings, as required in subsection (p), below.

(h) **Commission may review upon its own motion.** The Commission may, upon its own motion, review the decision of the Chief to impose discipline consisting of a written reprimand or a suspension without pay for five (5) days or less, whether the officer requests review or not, to prevent manifest injustice, or when the public interest requires it, according to the procedures set forth in subsections (e), (f) and (g), above, except that:

(1) Such motion must be made at the regular or special meeting which next follows the Chief's notification of discipline imposed pursuant to subsection (b), and must include specific findings of manifest injustice or the public interest which require the Commission's intervention.

(2) The Chief and the officer shall have twenty (20) calendar days thereafter to submit the statements and documents required by subsections (e) and (f), above.

(3) The Commission may uphold the decision of the Chief or may increase the penalty imposed. The Commission may not overturn the decision of the Chief or decrease the penalty imposed, nor may the Commission take such action in lieu of a request for review pursuant to subsection (e).

(i) **Suspension pending hearing.** Notwithstanding subsection (a), above, the Chief may suspend a police officer without pay up to the date of the next meeting of the Commission, even though the suspension will last for more than five (5) days, when the Chief has filed charges with the Commission pursuant to subsection (b). At the Commission's next meeting, the Commission shall, in addition to setting the date of the hearing, continue the suspension, terminate the suspension, or order that the officer be reimbursed for the pay lost while suspended without pay. Both the officer and the Chief may make either a personal or written statement to the Commission regarding the propriety of suspension without pay pending the hearing. If a member is suspended or placed upon administrative leave, the member is entitled to the member's allowances for insurance benefits to which the member was entitled before being suspended or placed on administrative leave.

(j) **Authorization for discipline.** Any police officer may be disciplined by the Commission for any reason authorized by I.C. 36-8-3-4, as amended, by this Ordinance, as amended, or by department rules and regulations existing at the time of the act constituting the alleged offense.

(k) **Disciplinary action that may be taken.** The Commission may take the following disciplinary actions against any police officer except the Chief or Assistant Chief of police:

- (1) Reprimand;
- (2) Suspension with or without pay;
- (3) Demotion;
- (4) Dismissal;
- (5) Forfeiture;
- (6) Administrative leave.

If a member is subject to criminal charges, the Commission shall place the member on administrative leave until the disposition of the criminal charges in the trial court. Any other action by the Commission is stayed until the disposition of the charges in the trial court. An administrative leave may be with or without pay, as determined by the Commission. If the member is placed on leave without pay, the Commission, in its discretion, may award back pay if the member is exonerated in the criminal matter.

(l) **Hearing before the Commission.** Upon receipt of charges filed by the Chief, or where the Commission elects to hold a hearing pursuant to a request for review as authorized by subsection (f), or on its own motion pursuant to subsection (h), the Commission shall schedule a hearing, and written notice of the hearing shall be served on the police officer at least fourteen days in advance of the date set for the hearing. Notice must be served upon the police officer by service upon the member in person or by a copy left at the member's last and usual place of residence. The notice must state:

- (1) the time and place of the hearing;
- (2) the charges against the police officer;
- (3) the specific conduct that comprises the charges;
- (4) that the police officer is entitled to be represented by counsel;
- (5) that the police officer is entitled to have subpoenas issued and executed;
- (6) that the police officer is entitled to call and cross-examine witnesses; and
- (7) that the police officer is entitled to a continuance in order to subpoena witnesses.

(m) **Subpoenas, witnesses.** The Commission may:

- (1) compel the attendance of witnesses by issuing subpoenas;
- (2) examine witnesses under oath; and

(3) order the production of books, papers, and other evidence by issuance of subpoenas.

(n) **Compelling testimony of witness.** If a witness refuses to appear at a hearing of the Commission after having received notice requiring his attendance, or refuses to produce evidence that the Commission has requested in writing, the Commission may file an affidavit in the circuit court of the county setting forth the facts of the refusal. Upon the filing of the affidavit, a summons shall be issued from the circuit court and served by the sheriff of the county requiring the appearance of the witness or the production of information or evidence to the Commission.

(o) **Contempt of court, expenses.** Disobedience of a summons constitutes contempt of the circuit court from which the summons has been issued. Expenses related to the filing of an affidavit and the issuance and service of a summons shall be charged to the witness against whom the summons has been issued, unless the circuit court finds that the action of the witness was taken in good faith and with reasonable cause. In that case, and in any case in which an affidavit has been filed without the issuance of a summons, the expense shall be charged to the Commission.

(p) **Decision of Commission.** A decision by the Commission to discipline a police officer may be made only if supported by a preponderance of the evidence presented at the hearing, or submitted for review, and upon written findings.

(q) **Appeal to court.** A police officer who is aggrieved by a decision of the Commission to suspend for a period of greater than five (5) working days, demote a police officer or dismiss a police officer, may appeal to the circuit court of the county. The appeal shall be made in accordance with I.C. 36-8-3-4, as amended.

(r) **External complaints.** All external complaints filed in writing with the Chief against a police officer shall be investigated promptly, according to the following procedure:

(1) The Chief may appoint an investigation board to investigate a complaint. The investigation board shall be made up of three (3) police officers and a chairperson who may or may not be a police officer. The chairperson shall keep order, maintain documents and transcripts, schedule witnesses, advise the board as to procedure and other matters, and perform other administrative functions, but shall not investigate the complaint, vote, or otherwise participate in the decision-making process.

(2) Within ten (10) working days of the filing of the complaint, the board, if appointed, or the Chief, if no board is appointed, shall investigate and file a written report of the findings and conclusions of the investigation in the office of the Chief. Such time for investigation may be extended up to sixty (60) days, if the Chief deems it necessary.

(3) Within ten (10) working days after the filing of the report of investigation, the Chief shall take appropriate action according to the rules and regulations of the Police Department as adopted by the Board of Public Works and Safety, and this Ordinance.

(s) **Notice requirements.** Whenever, in this Ordinance, notice is required to be given to the Commission, or reports or other documents are required to be filed or served, service upon the

President of the Commission or the Commission's counsel shall be deemed to be service upon the Commission. Whenever notice is required to be given to the Chief, or reports or other documents are required to be filed or served, service upon the Chief, Assistant Chief, the Chief's executive secretary or the City Attorney shall be deemed to be service upon the Chief. (Ord. No. 93-3, § 1, 6-21-93)

Sec. 6-387 Retirement Age.³⁹

A police officer who reaches his seventieth (70th) birthday shall retire. (Ord. No. 93-3, § 1, 6-21-93)

Sec. 6-388 Reduction in Police Force.⁴⁰

(a) If it is necessary for economic reasons to reduce the number of police officers in the Police Department, the reduction shall be made by granting a temporary leave of absence without pay or financial obligation to the City, to the appropriate police officers. The police officer with the least time of service shall be put on leave of absence first, with other police officers also put on leave of absence in their same service order until the desired level of police officers is achieved. If two (2) or more police officers have the same service date, the Commission shall consider past evaluations to determine who should be put on leave first.

(b) If the Police Department is increased in number again, the police officer on leave of absence shall be reinstated before an applicant on the eligibility list is appointed. The reinstatements begin with the last member granted a leave.

(c) A police officer on leave of absence shall keep the Commission advised of his current address. A police officer shall be informed of reinstatement by written notice sent by certified mail with return receipt requested. Within ten (10) calendar days after a police officer receives notice of reinstatement, the police officer must accept reinstatement and must commence employment within thirty (30) calendar days after receiving said notice. All reinstatement rights granted to a police officer terminate upon failure of a police officer to accept reinstatement within that period.

(d) If it is necessary for economic reasons to reduce the number of police officers holding a specific rank in the department, the police officer with the least time of service in rank shall be reduced in rank and placed on a reinstatement list until the desired level of police officers in that rank is achieved. The Commission shall reduce in rank the police officer with the lowest past performance rating during the immediate two (2) year period in the event the length of service in rank is the same for more than one police officer.

(e) A police officer on the reinstatement list will be reinstated to a vacant position prior to any police officer on the promotion eligibility list being promoted to the vacant position. The promotion shall begin with the last police officer placed on the reinstatement list for that rank. (Ord. No. 93-3, § 1, 6-21-93)

³⁹ I.C., 36-8-3.5-20, sets the age of 70 as retirement age from the Police Department.

⁴⁰ I.C., 36-8-3.5-21, addresses temporary leaves of absence, seniority, and reinstatement.

§ 6-389 SAFETY DEPARTMENTS AND REGULATIONS § 6-399

Sec. 6-389 Rules of Procedures; Amendments.

⁴¹

(a) The Commission shall print all rules and procedures of the Commission and furnish a copy to each police officer. Each police officer shall sign for the copy received.

(b) Amendments to the rules and procedures shall be accomplished in the same manner as adoption described in Sec. 6-380 of this Code and furnished in the manner described in subsection (a) above. Amendments take effect thirty (30) days after adoption. (Ord. No. 93-3, § 1, 6-21-93)

Sec. 6-390 Departmental rank.

It shall be the responsibility of the Board of Public Works and Safety to determine which ranks are required in the Police Department, subject to the approval of the funding of said ranks by the Common Council through the budgetary process.

Sec. 6-391 Implementation of Merit Plan; Departmental Structure.

Upon the implementation of this article, the organizational structure and general job description of each police officer shall be as recommended by the Chief with the approval of the Board of Public Works and Safety. The Commission shall implement this structure by filling the required rank positions according to the plan, approved by the Common Council through the budgetary process. During the month of July of each year, a departmental structure shall be, on the recommendation of the Chief with the approval of the Board of Public Works and Safety, submitted to the Commission. The reorganization will be implemented by the Commission by filling new rank positions according to the rules and procedures of the Commission, subject to the approval of the funding of said ranks by the Common Council through the budgetary process. No promoted officer shall be reduced in rank for the reason of reorganization, but shall hold that rank unless qualified for promotion, nor shall the officer lose any consideration for promotion to the next higher rank. Reassignment of any officer as a result of a change due to reorganizing shall be in accordance with this article and the rules and procedures of this Commission. A reassignment of a police officer from one shift to another or from one detail or section of the department to another shall be considered administrative decisions of the day-to-day operation of the department. (Ord. No. 93-3, § 1, 6-21-93)

Sec. 6-392 Merit Commission to Have Exclusive Responsibility for Hiring, Promotion and Discipline.

Adoption of this Article and the establishment of the Commission relieves the Board of Public Works and Safety of all responsibility for the hiring, promotion, and disciplining of police officers. The Board of Public Works and Safety shall be responsible for the day-to-day operation of the Police Department, except as herein provided.

Sec. 6-393 through 6-399 Reserved for Future Use.

⁴¹ I.C., 36-8-3.5-22, requires all rules to be provided in written form to each police officer.